

**CLARK COUNTY PLANNING COMMISSION  
MINUTES OF PUBLIC HEARING  
THURSDAY, SEPTEMBER 18, 2003**

BOCC Hearing Room, 6<sup>th</sup> Floor  
1300 Franklin Street  
Vancouver, WA

6:30 p.m.

**CALL TO ORDER**

The public hearing of the Clark County Planning Commission was called to order at 6:30 p.m. by Chair, Vaughn Lein. The hearing was held at the Public Services Building, BOCC Hearing Room, 6<sup>th</sup> Floor, 1300 Franklin Street, Vancouver, Washington

**ROLL CALL**

Members Present: Vaughn Lein, Chair; Jeff Wriston, Vice Chair; Lonnie Moss, Ron Barca, Carey Smith, and Dick Deleissegues.

Members Absent: Jada Rupley.

Staff Present: Patrick Lee, Long Range Manager; Linda Moorhead, Code Enforcement Manager; Donna Goddard, Code Enforcement; and Sonja Wiser, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

**GENERAL & NEW BUSINESS**

**A. Approval of Agenda for September 18, 2003**

The agenda was approved as distributed.

**B. Communications from the Public**

None.

**PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**

**PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, CONTINUED FROM  
AUGUST 21, 2003:**

**A. AMEND CLARK COUNTY'S HOME OCCUPATION ORDINANCE:**

The Board of County Commissioners (BOCC) appointed a task force in April 2002 to study the issue of the use of rural properties for home occupation business activities. The task force met between July 2002 and April 2003, and developed a draft ordinance to regulate rural home occupations. County staff has modified the task force recommendation to include urban home occupations and to address other policy and legal issues. The ordinance, if adopted, would replace current home occupation standards in CCC 18.406.020(I). This hearing will be to consider the proposed ordinance.

The draft ordinance consists of: a statement of purpose; a section on applicability and exemptions; a definitions section; and sections on development and performance standards. The draft ordinance is available on the county's web page at [www.clark.wa.gov](http://www.clark.wa.gov). Copies of the draft are also available at Clark County Community Development, Long Range Planning, 1300 Franklin Street, 3<sup>rd</sup> Floor, Vancouver, Washington.

**Staff Contact: Gordy Euler, (360) 397-2375, Ext. 4968.**

LEE: We did have on September 4th a work session. At the work session we did distribute a matrix that sort of compares the different proposals before the Commission, copies of which have available if people in the audience have not picked them up. And really I think the public hearing was left open for additional testimony from the last meeting and any direction you would like we can give a brief overview, we can work our way through the matrix really. How would you like us to proceed on that account?

LEIN: Does anyone here want to go back through the matrix or have a brief overview?

MOSS: I'd appreciate that.

LEE: Okay. Then I'll have Gordy.

EULER: Does everybody up here have a copy? For the record I'm Gordy Euler, Long-Range Planning, Clark County. And we are handing out a copy of matrix comparison charts that was given to the Planning Commission at the --

LEE: September 4th.

EULER: -- September 4th work session. I apologize, we only made about 15 or 16 copies. What the matrix shows is the current Home Occupation ordinance that's in Clark County Code 18.406.020(l). And next to that in a column is the Rural Enterprises Task Force Proposal. That's the group that met from July of last year to April of this year. In the next column is modified Rural Enterprises Task Force Proposal. The County added some things to it. In particular urban areas are considered now in this ordinance as opposed to just rural areas. The next column entitled "RBC Proposal" is the Rural Business Coalition Proposal. And the last column is just a comment column. So that's the 11 by 17 set of sheets that's going around currently.

LEE: Why don't you walk through some of the major differences.

EULER: Major differences. Well, the current ordinance does not distinguish between urban and rural areas. We have Type I permit, Type II permit for home occupations. You can read down here how again we picked some of the things that we thought should go into an ordinance and you can look across the pages and see how they're currently treated and how they're proposed, how they would be dealt with under the three proposals that we've got.

Some of the issues that the task force wrestled with were what to do with rural businesses on private roads. We've had a lot of discussion about how that's going to be handled and I'm not sure we've got a clear solution, although we think that's an important piece of the puzzle. We talked about the use of accessory structures. The current code now does not allow you to have an accessory structure to qualify for a Type I permit. You can have an accessory structure up to 400 square feet in urban areas and 1,000 in rural areas. We talked about employees and essentially which addresses the traffic issue, customers coming in and out depending on what it is that you're doing. Certainly equipment and vehicle storage and trailers and that sort of thing was on everybody's minds as the -- at least for the task force, tried to come up with a definition, a workable definition of equipment, of vehicles and how in their essentially negotiations and deliberations they chose to address the issue through a matrix. There's no such matrix in either the current code or in the Rural Business Coalition Proposal.

There's some other things that are mentioned here in terms of whether sales would be allowed, incidental sales, that kind of thing. As I said before, the current ordinance does not distinguish between urban and rural areas. The Rural Enterprises Task Force obviously concentrated on rural Clark County. It was at the time we talked with the Board after they looked at the Rural Enterprises Task Force Proposal that we figured it would be wise to add urban in as kind of this continuum of activity. Let's see what else we've got in here. There are requirements that you have what the Modified Task Force Proposal calls a major home occupation. You need to identify a business activity area which is an area that's outside on your property within which you can store equipment and have material. It doesn't include the square footage that's in your house or your accessory structure.

SMITH: It also doesn't include turnaround space and things like that?

EULER: Right. It's turnaround, it's parking, it's that sort of thing, vehicle storage. There's requirements for landscaping and screening and setbacks, things that came out of other parts of the current code, essentially the site plan review part of it. All of the proposals talk about hours of operation. I'm trying to think of what else in here that's -- and depending on which proposal you look at those would include just a Type I, there would be no public notice, notification required. That was the Task Force Proposal, although the proposal was they attempted to say you start a Type II process if you're on a private road and if you get the agreement of your neighbors and anybody who's entitled to use the road, you end up paying the Type I fee. So fees being a concern we said if you can -- if there's nobody that objects to the business and you've worked out some kind of a deal for road maintenance, then that's part of the -- that's part of what you submit in your application. Again, that was the Task Force Proposal.

The Modified Task Force Proposal bumps up what we call major home occupations to a Type II which has an automatic notice provision. That's one of the things that was included in there. That's one of the things that we do as government is to notify surrounding residents that there's a development that might potentially impact them or at least let them know that something is happening. The Rural Business Coalition Proposal stays with the task force recommendation that there would be Type I required, but they have a public notice requirement in there as recognizing that, I think as we did, that in some cases we need to notify neighbors that something may be happening. Our take on it is we didn't want to be in the position of permitting something that might be impact producing and having have it structured in our institutional process so that we would not notify neighbors. We feel that that's doing a disservice to the community. Other than that, Mr. Chairman, there's -- I mean I'll be happy to answer specific questions.

LEIN: Are there any questions at this time?

MOSS: No. We appear to have some new information here too on fees?

EULER: That's correct. I met with Travis Goddard today and I said for a typical Type II development what would be the fees, and I can certainly make this available to anybody in the audience, what he did was started with the home occupation fee, which is essentially why we're here, and he put together a matrix that shows Type I, no critical areas, just with a site plan, if you have critical areas; Type II with a site plan, Type II with a SEPA required with or without critical areas, and then Type II if you were in code violation, and the bottom part of this matrix then looks at the if for some reason you'd need a conditional use permit. Now the CUP information is hypothetical because the current ordinance has no provision for a CUP. So you can take that with a -- I mean this is information, but right now this is not an option so.

LEIN: Any other questions?

EULER: Do you want to put this on the screen for people to see?

LEIN: Why don't we put it up real quick so that they can see it.

EULER: We can do that. I forgot we have all this nice new technology. Is that reasonably clear back there?

LEIN: Any other questions of Gordy on this issue or anything else? If not, we will open it for public testimony. I do have a sign-up sheet. I notice there are a couple of names here that testified the last time, we would appreciate that you provide new testimony rather than be repetitious. We'd appreciate that. So I will start down the list and if your name isn't on the list, we'll get to you afterwards. We ask that you come forward to the microphone and state your name and address for the record. The first person is Delores Carlson.

### **PUBLIC TESTIMONY**

CARLSON: My name is Delores Carlson. I live at 1702 NE 209th Street in Ridgefield. I came with a letter that was handed out and there are pictures, but unfortunately I only had one set of pictures. And if you have any questions about them, I can -- the letter stresses my concern what is happening in my neighborhood on an escalated scale should not be allowed. Lots of traffic and semi-trucks pulling in and out of a road that has a slight hill on it, on a County road that has 50 mile an hour speed limits, an accident waiting to happen. Cars coming and going seven days a week all during the day.

LEIN: Mrs. Carlson --

CARLSON: An average of 10 to 12 cars in the lot at all times, and this is on a three and a half acre parcel.

LEIN: And it's an automobile repair?

CARLSON: Yes, that I understand has no permit at this time.

SMITH: You have reported it to Code Enforcement, then?

CARLSON: Pardon?

SMITH: You have reported it to Code Enforcement?

CARLSON: Yes.

SMITH: How long ago did you report it? How long has this been going on?

CARLSON: It's been going on since probably last spring maybe, but it's -- I mean the building is huge, I mean it's -- the pictures show how it -- the pictures can show where our property line is and where, where the building is that is being used. And it was previously used by the previous owner for agricultural and farming and recreational storage and he has since sold a 7-acre parcel and divided it in half to three and a half acres and we've lived there for 25 years and it's just ruined our neighborhood. It's basically ruined the neighborhood that we live in. I come home to see 10 and 12 cars next door every day and now, you know, they're not only in the front of the house, I see them in the backyard when I look outside. And like I said, the pictures show what we are dealing with.

MOSS: Mrs. Carlson, is there a residence on the property?

CARLSON: There's a trailer but nobody lives there. They claim they live there but they don't.

LEIN: Any other questions of Mrs. Carlson? Thank you. JoLyn Cornelsen.

CORNELSEN: I'm JoLyn Cornelsen, 14101 NE 144th Street in Brush Prairie. I'm personally all for home business. I was just reading some of the kind of a newcomer into the things that are going on, but I really think that we need to be able to have the freedom to create businesses at home, especially when we lose jobs or we transition from one thing to another. And we have a 20-acre parcel in Brush Prairie, it's zoned Ag 20, we bought it in the year 2000 and didn't know much about land use at that time, trying to figure out what we can do for that for agriculture and what I'm finding is, all the research I'm finding is that it's really really difficult to make a living in Ag 20. You know, it's just not big enough. If you're going to do a farm, you have to have hundreds of acres and a big operation and that's just not who we are. The first 10 acres of the land off of 144th Street was overgrown with wild blackberries. It had been previously logged of old Fir a few years back and then just left and so we've been fighting for three years. Wild blackberries is about all we can, you know, get from that.

It is very picturesque. There's one of these up there with some pictures in it if you just, you know, can skim through it. Very picturesque and what we would like to do is to build a separate lodge on the property for overnight guests and to do weddings there. The house, our house is set way back from the road, but it's not really setup, it's not like a historical kind of building that is a typical bed and breakfast as according to this county and it just isn't really set up to have guests, you know, for overnight stays or for weddings. Our neighbors are quite far away, we've got just raw land on the east, on the west is, you know, I think it's about 40 or more acres of just grassy fields, on the south of us is just land with trees on it, cow pasture, you know, nothing there. The closest neighbor we have is across the street which is a quarter mile away from our home and it's got a dog kennel on it. It's all of that acreage is zoned Ag 20 and the neighbors across the street, they have like 10

acres. Then you go about a quarter of a mile kind of kitty-corner there's Prairie Field if you know that area. And so I don't think what we want to do would really cause any harm, you know, to anybody or disturb any neighbors, but I couldn't figure out exactly how it fits in what you're proposing for the home business ordinance and so I think it needs to be enough flexibility in the, in the things that you write that we can do the kinds of things that would make sense on our property.

And there's a couple of questions that I had there. As I read through the home ordinance things, when it talks about an accessory building it doesn't specifically say what it has to be used for. Well, hopefully not so we can have some flexibility, but it doesn't prohibit it from overnight stays, and yet what we want to do doesn't exactly fit a traditional bed and breakfast either, so I wanted to make sure our clarification on that, that what we want to do would be approved. And then if you define "customer," you know, again here it doesn't really exactly fit. Is a "customer" one person paying rental for the use of the place for the day for a wedding, you know, and then they bring their wedding party in it or is one customer one person in one car coming up to, you know, to do something at your home as a customer. So the definitions, you know, I think need to be broad enough to allow some flexibility in the home business.

LEIN: Any questions from members of the Commission?

WRISTON: Pat and Gordy, do you have a response?

LEE: Do you know if that would be allowed under --

EULER: I'd have to look. I'm tending to think not, not on ag property, but I'd have to look at the Code.

WRISTON: What's that? You got to put your microphone -- I can't hear you.

EULER: I'm tending to think that's not a use that's allowed on Ag 20, but I'm not a Code expert so.

CORNELSEN: Well, if you look at the Code, the current Code, it does say "recreational uses, recreational retreats." It limits it somewhat like, which is kind of funny to me because there's an Ag 20 not too far away from us the Hartman, no, Hartwood Golf Course there on 152nd and they're on Ag 20 and they went through a conditional use permit a few years back and the -- but I don't know if the Code then said not to include golf courses but it says it now. Part of our problem is time and money. We want to do a business, we want to work at home, we love being on that property, we want to make it available to others to enjoy the out of doors. You don't want it developed, it's got to do something and this is where our expertise is.

You know, I'm not a farmer, I'm not Dennis Lagler that, you know, can run 800 cows and,

you know, thousands of acres of grass, and I can't buy all that big equipment, and so when you want to throw at me a \$15,000 permit just for the asking to do a home business, that's overwhelming to me. How am I going to feed my family. I'm an RN, I don't have the physical capabilities to run the hospital halls anymore, you know. And my husband, he's a recreation specialist, this is our expertise, why can't we use our expertise in our own home business not bothering anybody but do something that will actually enhance the county and help people have a fun place to go. I don't see any reason why that couldn't be allowed.

And I think the permits need to be reasonably cost effective. I think it's overwhelming. I was just amazed when we moved there and I started going through that massive regulations for the properties and feeling like, you know, like I didn't know how I would ever, ever, ever get anywhere in a home business because it just the money, you know, just the thought of 13 to \$15,000 for a permit, you know, it takes a lot of money to get going and where do you get it other than going into debt and then you don't even know if you're going to get permission until you ask and pay the money. It's difficult. Okay.

LEIN: Any other questions? Thank you very much.

WRISTON: Thank you.

LEIN: Jim Malinowski.

MALINOWSKI: I'll pass for now.

LEIN: Okay, thank you, Jim. Brenda Fairbanks.

FAIRBANKS: I'll pass.

LEIN: Charles Griffith.

GRIFFITH: I'll pass.

LEIN: Mike Rotschy.

ROTSCHY: I'm from Chelatchie Prairie, 44013 NE Protzman Road. I'm a fourth generation tree farmer, north Clark County landowner, and I'm also president of Clark County Farm Forestry. I'm a little bit concerned that we weren't allowed a seat on the task force because I do think that even though this is not a forestry ordinance, it is directly going to affect a lot of our suppliers, our subcontractors, the people that build our roads and rock our roads and do a lot of the road repair forestry work. And I want to point out that all big business in Clark County or anywhere starts out as a small business, and in drafting an ordinance please keep in mind that the more restriction you throw on somebody, the least likely, less likely they are to take the leap, take the plunge and start a business. So, you know, I'm not, I'm not here to say that anybody has the right to step on their neighbors, but



try to draft this thing so that it's business friendly and then deal with the nuisance as they come up. I don't know. I wish I had some magic recipe but be friendly to business.

LEIN: Any questions from members of the Commission? Thank you. Corina Higgins.

HIGGINS: Corina Higgins, 11009 NW 30th Court. I'm a second generation contractor, my father was a contractor and ran his contracting business out of his house, Custom Homes & Remodeling, that's what my husband and I do out of our house. We live in the urban area. We have two vehicles and a couple of trailers --

DELEISSEGUES: Vaughn, they can't hear. I don't know if that microphone's on or not.

HIGGINS: Is that better?

DELEISSEGUES: Yeah, that's a lot better, thanks.

LEIN: Thank you.

HIGGINS: Okay, sorry. We have two vehicles and two trailers, we have a side yard in which we park them in as well as our driveway, we keep it nice and neat and tidy. Our trucks and our vehicles are kept clean. We have two neighbors in our cul-de-sac that have six cars apiece that do not run their own businesses of which of those cars, four of them don't run and sit in the driveway rusting and rotting, more of an eyesore than what we do for our business. We have a couple of employees, one that does come to our home, one that does, very rarely does, occasionally for a meeting. We occasionally have clients come to our house, very rarely do we ever. The neighbor next to me has an RV that's probably older than my grandmother, it still runs but it looks like heck, and a truck that they do wood chopping with. So in the grand scheme of things we blend right in our neighborhood, in fact probably a little bit better than our neighbors; however, if I'm reading through all the things correctly that where we would apply into the system, we're probably going to be paying about the \$24,000 thing because we don't fit in any one of those categories so we'd have to have a conditional use permit.

And like the lady before says, we have to pay all the money up front just so that we can get a yes or a no 24, \$13,000 later. That would put us out of business. You know, the \$79 fee would be great, the \$2600 fee would be hard to choke down. You know, it's very difficult in Washington State for a small business to survive as it is. I would hate to see us have to leave this area in order to keep our small business going and at the rate things are going right now that's what it's going to wind up being. 2600 bucks, 5100 bucks, whatever it is, it's not conducive. I know there's problems in the rural areas and like the gentleman before me, you know, it's a situation-by-situation deal. The same thing in the urban areas; however, not everybody runs an accounting business where they go visit their clients, where they, you know, have two cars and a nice lawn.

Nobody wants to be the bad guy in the neighborhood, and we certainly don't want to be either, and I think that if it's urban area is included, there has to be some modification of the types of businesses that are included in certain, certain areas. You know, accounting, book work, stuff like that is understandable, but when you're talking about starting a new business where you have a lot of overhead, construction, I'm trying to think of others, I mainly focus on construction obviously, but you're looking at for us to get a storefront somewhere we couldn't afford it right now to keep our business running. And it's what -- we're single income family, my husband and I run the business with two small children, it's not feasible, you know. I don't want to go into debt in order to maybe get a permit, maybe not, or to have a storefront just so I can keep my business open what I can afford.

So I would appreciate that if it comes down to modifying and using the urban areas that we also focus on the types of businesses that are run in urban areas and regulations that would be appropriate for the types of businesses that are there, you know, whether it be a clerical type of thing versus a laborer or construction or, you know, the various. So thank you very much for listening.

LEIN: Any questions of Mrs. Higgins?

SMITH: Have your neighbors ever expressed any concern over your trailers?

HIGGINS: No, actually they haven't. In fact most of our neighbors have come to us and asked questions about how to remodel their home and would my husband like to help them.

SMITH: Cul-de-sac advertising then.

HIGGINS: You know, we have had other small businesses on our street and cul-de-sac, we've had a day-care, we've had a variety of things of which haven't had any problems yet so.

SMITH: Thank you.

HIGGINS: You're welcome.

LEIN: Curtis Becker.

BECKER: I'll pass.

LEIN: Jarvis Burton.

BURTON: Hi, my name is Jarvis Burton, I live at 14515 NE 188th Avenue in Brush Prairie. And I'm not sure what your procedures are here, I kind of looked on the Internet and saw that if I was going to bring comments in to bring ten copies so I did do that. And then I'm

not so sure if I'm supposed to sit here and read them all into the record or if that is all you need.

DELEISSEGUES: Summarize it.

LEIN: It would be good if you could just summarize what you perhaps have to say.

BURTON: Summarize, okay, yeah. The cover page does have a summary on it. Essentially, you know, I recognize these issues are not black and white, it's difficult, my heart lies in helping people, you know, stay in business and support themselves. I like the idea of home operated businesses as long as they're not impacting their neighbors. I unfortunately have a situation on my hands where I have a business next door where the business has stated that they -- essentially they are refusing to participate in the maintenance of the road. It's a private road and we're the only two that use it. I have over the last 15 to 18 years done, it's been my labor, my equipment, my money that's gone into the road keeping the blackberries off the road, so on and so forth. The neighbor has done very little. I can't say that he hasn't done anything, but he's done very little over all these years; however, it's not been an equitable amount and has indicated that he may or may not want to do any share of the maintenance costs. So he's pretty much resolving himself of any responsibility to participate in the maintenance of this private road that just the two of us use.

And the business attracts other people to coming in. Now the neighbor has indicated that he has no employees. He indicates, I'm not sure if he's claimed or not whether or not he actually has customers that come there or not, but whether you call them "employees" or whether you call them "customers" or whether they're just there visiting because they like to watch him do the kind of work, whether they're helping him, whether they're volunteers, whether they're students, regardless of what they are, the business attracts traffic on the road. And some of this traffic comes in at a very high rate of speed and the neighbor when we've talked to him about this in the past has indicated there's nothing he can do about the way people drive. So he is essentially washing his hands of the responsibility of the people that are coming to his place driving right passed my place enroute to his place. He essentially refuses to deal with the speeding issues and he's essentially doing little to nothing on the maintenance issues.

So my concern typically lies with these situations where you have a private business at home and they're on a private road, which means that essentially the people living on it is going to have to maintain it, and if they're refusing to participate, then the -- and especially if they're adding added traffic because of their business and refusing to participate in the maintenance, that's a problem. Also, if the traffic is an issue with speeding in and they refuse to address it, that's a real problem because it's a private road and I can't call the police in and say these people are speeding because the police essentially wash their hands of it and say we're sorry, that's a private road, that's a civil problem.

So essentially I'm stuck here with a maintenance issue and a speeding issue and if these aren't addressed in allowing businesses to come into these rural areas, I feel that there's going to be a real mistake here. It's going to -- and allowing the neighbor-to-neighbor resolutions is not really a good idea because in our case our relations have deteriorated to a great extent and neighbor-to-neighbor relations aren't going to resolve my issues. And if you allow the relaxed permitting process -- essentially this business is a foundry, now he claims that it's an art studio, but it's a foundry, he casts metal, he welds metal, et cetera, et cetera, that's what he does. He claims to be an artist, but it's a foundry business. The title that his business is registered with the State is as a foundry, it's not an art studio, although that's what he will say that it is. If you allow these type of industrial business to move in and not have some requirements on taking care of these private road is the main thing. I also have some issues with unsightliness, but I've also seen other people who have home businesses that keep their property impeccable so I can't really say that everybody is like this one, but if you allow these regulations to allow these business to come in and get established by law, then it leaves people like me just really floating with no recourse. I don't know what to do.

So I've turned in my -- what I've given is essentially a summary and most of it deals with essentially if a business, if you can't see it, smell it, hear it, taste it and if they have no visitors, I agree, keep the fees down because Lord knows that Clark County fees are a little higher than what we can bear sometimes. However, if they're going to have impacts on their neighbors, then you need to be able to address these things and whatever that takes. I've also attached to the pages specific comments to the drafts which you can go through that and take a look at it as it is.

LEIN: Are there any questions of Mr. Burton?

BARCA: I have a question. Mr. Burton, in your written commentary that goes along with the draft ordinance you have listed in a couple of places a prohibitions towards industrial business. Are you referring to business that would be zoned in an industrial land specifically or are you talking in a broader sense than that?

BURTON: I'm in reference to I don't think a foundry belongs in a residence zone. I'm a little bit baffled. If you start, and I mention this in my paperwork, I say, you know, if you're going to start letting industrial type and commercial type business into residential zones, why bother having the zoning. What good are they.

BARCA: I think that answers my question.

LEIN: Any other questions? Thank you, Mr. Burton.

BURTON: Thank you.

LEIN: Jane Ross.

ROSS: That was me, he just came before (inaudible) and I thought I was just to sign in, I don't have any comments.

LEIN: Okay, thank you. Matt Lewis.

LEWIS: Good evening, Planning Commissioners. Matt Lewis, 5007 NE St. Johns Road. I work for the Building Industry Association and I'm speaking on behalf of our 780 members, as well as the Rural Business Coalition which we are a part of. Thanks again for this opportunity. I also want to thank staff. In the time since the August 18th hearing members of the Rural Business Coalition, including myself, met with Mr. Euler and Rich Lowry from the civil attorney's office and we had a productive meeting in which we talked about some of the concerns that they had with our alternative proposal. And I also want to thank them for putting together this fee work sheet, I think that's extremely helpful and should avoid some of the tit for tat that occurred in the last hearing and by showing the accumulation of fees for each type it paints a much clearer picture.

I want to take off five facts, if you will, that I think would be generally agreeable to all sides on this issue and they're important that we have them out there for some context. First off, there's a tremendous amount of home based business in Clark County, specifically in the rural areas. As I told you last time, the Department of Labor & Industries reports 886 registered contractors in rural zip codes, that does include the incorporated areas of Battle Ground, Ridgefield and La Center, so you need to make some allowance for that. I also have a new document in that packet from the Washington State Department of Revenue. On those same rural zip codes I asked for all businesses that report taxable income and there's 7,142. Again that includes the incorporated areas of Ridgefield, Battle Ground and La Center so a deduction from that total is necessary. But even if we were to assume 75 percent of those businesses are located in the incorporated areas of those three towns, which I probably would think is a bit high if you've driven through there, that still leaves almost 2,000 businesses that are paying taxes in the state of Washington located in those rural areas. So there's a lot of them and as you see them from the testimony they're very diverse. When I got involved in this issue on behalf of our members two and a half years ago the picture of rural business I had was predominantly related to the construction industry and it's been fascinating from phone calls I've received from people reading it in the paper to the testimony provided here the diversity of these businesses from day-cares to foundries, a new one I just learned of, auto repair, on and on and on and on, so it's a significant economic component in Clark County.

Second off, most of these home businesses are illegal. The existing code is rather restrictive and very, very, very few have permits and very, very few could receive a permit. So there's a lot of them and most of them are illegal. Third, the complaints received are relatively small when you compare the number of businesses or per capita. Depending on what analysis you want to do there isn't a whole lot of them and I've provided some documentation on that at the previous hearing. While they might be few, there are certainly

some legitimate ones. I think the two described here this evening and some of the ones on August 18th are unacceptable and no landowner should have to tolerate some of that activity next to their property.

Fourth, properly zoned land in the rural areas is extremely scarce, if not nonexistent. The final attachment in that packet is a report from County GIS which has all the rural land use designations and the accompanying acreage amount and you'll see that there's 103,652 acres of rural residential land, over 200,000 acres of ag and forest land in comparison to 292 acres of industrial land, 284 acres of commercial land and 1200 acres of rural center commercial. So we're talking 300,000 versus about 1500. So that's one of the contributing factors to the amount of home based businesses is that in that area there aren't a lot of alternatives to be legal.

Fifth, the Task Force Proposal is an improvement over the existing Code. I mentioned earlier the existing Code tolerates nothing, and there's many positives. And in fact in our alternative we've incorporated many of those task force components, but that matrix that is included at the end of the Task Force Proposal is very problematic and most businesses wouldn't comply. The evidence I have towards that conclusion is the survey I did of our membership. I received about 60 respondents and about two-thirds of them would not comply because they would exceed one of those five or six categories, number of vehicles, trailers, square footage, and so on, employees.

So I think those five facts are generally accepted. So our goal here is to create a policy that protects our neighbors, but also I think protects the thousands of businesses that are out there. And I'm optimistic, I'm encouraged, I said that last time, and I'm even more so tonight, after hearing the two examples of offensive business behavior I believe both of them would be controlled in the Coalition Proposal. The first speaker who had concern about the accumulation of vehicles, those would all have to be screened in our proposal or stored in a building. And then the gentleman with the private road concerns, those are addressed as well.

And in fact that leads me into my next point. There's a document in there, two pages, Rural Business Coalition Response to Planning Commission and staff concerns. I'm not sure -- I wasn't in attendance at the work session, I'm not sure if this was delivered to you or not, but this is the outcome of the discussion that we had with staff to further sharpen our propose to address some of those lingering questions and to protect neighbors even further. So on that private road issue we would recommend that businesses on private roads would go into a Type II permit process; however, it's a modified one, a reduced fee and there needs to be an exemption from some of those site plan review requirements, specifically stormwater. There is no relief if an existing business is going through a site plan review with a stormwater review which over 5,000 square feet of impervious surface you're putting in ponds and swales. And this is not unprecedented, I believe single-family home construction is exempt from stormwater right now and this wouldn't -- any concern about degrading our environment would be addressed because anyone who's building

new buildings they would go have -- they would go through the normal construction process triggering anything. This would apply to the existing barn with a graveled area, it wouldn't force him or her to put in these ponds.

And then on the private roads we propose sort of a novel approach, and I'm not exactly sure how it would work out and I was hoping Rich Lowry would be here this evening to provide some commentary, but that's one where one of the application submittal requirements is a road maintenance agreement that has to be signed by all property owners accessing this private road that the business is located on. Now I think in many cases that would be easily obtained. The business owner would take the high road and do what he or she needs to do to mitigate their impacts, oil the road, pave the road, spray the road, post speed, whatever it might be; however, there's certainly going to be situations where there's irreconcilable differences or an obstinate neighbor. In fact there could be one who just is using it as veto power without good reason. In that case you would go to mediation which is provided free of charge from the Clark Vancouver Mediation Services to help broker an agreement. If that fails, it would go into binding arbitration which would be paid for by the applicant, and as I'm told the cost is 750 to \$1500, but at the end of this process, and it's one in which it's negotiated between the two landowners on a site-specific basis, at the end of the day you come up with an agreement. And if you have to go all the way to the arbiter, so be it, but an agreement is reached and the issues on that private road are addressed.

And finally, one of the concerns that's come up is this issue of equity and I think it's been voiced earlier this evening, this idea that we're tossing out zoning, that this is some sort of land use anarchy outside the urban areas and legally established businesses in improperly zoned land in the urban areas could make an economic decision to leave their property and move to much cheaper land in the rural areas, it's not, that's not going to happen for a number of reasons. And I think the chief reason is the same reason that they're in the urban areas is the reason they're going to stay. And it's not just a dollar decision when people locate their businesses, there's life-style choices when you have your business at your home, there's market decisions to be closer to your customers, be closer to larger roads and infrastructure that aid your business, help your business grow. Certainly one of the largest factors, though, is dollars, being able to afford the overhead of property. Plus a larger business moving to the rural areas under our proposal, while we don't have caps on number of pieces of equipment or building size, our performance standards are going to be very tough for a large commercial or industrial business to meet. And again remember the person has to live on property, live, the owner has to live on the property, which the situation with the first speaker there's a trailer there, that wouldn't be accepted. And in fact we also have another proposal that deals with the owner. Let's see, the Coalition proposes a requirement that home businesses must be 95 percent owned by the property owner. This ownership requirement would be another deterrent for relocating large commercial operations to rural residential land.

So our proposal is probably not perfect, I think there's improvements to be made, and I

hope some of those recommendations come out of your deliberations later on; however, the Task Force Proposal, or more specifically that matrix, it's unacceptable unless we want fairly significant economic ruin in those areas for those people. So I would encourage you to adopt the Rural Business Coalition Proposal in whole or at least in part and be very careful with the arbitrary numerical caps because that's when we run into the real problems, but focus more on the performance standards that limit those negative external impacts that are the real problems. I think that concludes my remarks and I'd be happy to answer any questions.

LEIN: Any questions for Mr. Lewis?

SMITH: I guess I have a question for Mr. Burton. Mr. Lewis talked about the arbitration and mediation. Is that something you think is feasible in your situation?

BURTON: I don't know.

LEIN: Mr. Burton, Mr. Burton, could you come up to the microphone so we can get that. Thank you.

BURTON: I think a road maintenance agreement is something that would work. I recognize the ability -- or I'd also be concerned if I was on the other side of the fence the ability of somebody to stonewall your business by saying I'm not going to sign your agreement. So if you were pushed into a final end of the day settlement that was brought up by a fair settlement brought about by the mediator or third party, independent mediator or arbitrator if you needed to, it seems to me that would be a fair thing to do, then you have a legal binding agreement and you'd go forward from there. My that's part one of my concern, maintenance.

Part two on a private road has to do with the conduct of the visitors that are driving by your place and how do you deal with that. The Sheriff won't come in and deal with speeding or reckless driving or anything else that's going on, and harassment, whatever's going on as the visitors are driving by your house and they're giving you obscene signals and things like that because this is a civil issue. I'd like to see something brought about with regards to the ability to enforce some kind of a speed limit. And also I think in my book if the maintenance issue and the speed issue was resolved, then the other issues would fade away, but as long as people are resolving themselves of not having to do the maintenance or not having to address the speed issue that their people are causing, then you've got a problem. And I don't know how you deal with the speed issue because, like I say, private roads the law enforcement won't touch it.

SMITH: One more question for Mr. Lewis. Thank you, Mr. Burton. Screening, that's kind of a broad subject. We have some pictures here today that was passed around of someone sticking up a secondhand fence with slats missing and calling that "screening" where the trucks were probably better to look at than the screening was. What kind of



regulations will there be as far as the screening is concerned? Does it have to be vegetation, does it have to be architectural fencing or what would it be?

LEWIS: Our the Rural Business Coalition Proposals reference existing County Code Landscaping Code, I think it's in the site plan review chapter, to an L3 standard. I believe that's six feet tall, 90 percent opaque and it can be of a variety of substance, vegetation or brick, fence, stone. But they're standards, it's not, it's not just left up to the owner or the operator of the business.

SMITH: It sounds like that fence that we saw a picture of would fit that standard, though, there.

MOSS: No.

SMITH: Wouldn't it?

MOSS: No, it wouldn't. Definitely not.

SMITH: Okay. Because it's 90 percent opaque and --

MOSS: It's not 90 percent opaque, it's more like 50.

SMITH: Okay, thank you.

LEIN: Any other questions of Mr. Lewis?

LEWIS: Thank you.

LEIN: Thank you, Matt. That concludes the sign-up sheet. We'll open it to other public testimony. I saw a couple of hands come up. Whoever wants to come forward, please come to the microphone and state your name and address for the record.

MACINTOSH: Gentlemen, my name is Ken Macintosh, I live at 14610 NE 188th Avenue. I am the neighbor that Mr. Burton refers to. I've lived out there for almost 14 years. I'm an artist. There weren't any issues that have arisen up between us until about three years ago when he short platted his property across from me. There are some issues due to the easement that need to be resolved in conjunction with the other landowners to my south that had to improve that road dramatically leading into my gate when they had to short plat their 5 acres just six months before Mr. Burton. So there are some issues between us. I'm not sure this is the exact forum for it, but I work as an artist. I pour bronze about two or three, four times a year, I create artwork. I bought my property from James Hanson, who's a fairly well-recognized artist in Clark County. I have worked there with no complaints from my neighbors all these years. In fact really the only complaint I get is from Burtons. I have pretty low traffic to my place.

But I would urge you to look at being flexible with small entrepreneurial artists in particular, we've got some great glass people in the county, we've got a few amazing sculptors in the county. I would urge you to be very flexible with people because it's a fragile time to earn a living and feed a family and I've got a family. I work in my studio, it's the same residence, the same building as the residence I live in, it's one big building. In fact when I filed my site plan and my blueprints with Clark County the building was built to the limit of height and was listed as an artist studio and residence from the very beginning with this County and I just recently found out about these hearings and about what was under discussion. Previous to this I knew nothing about it, I just licensed with both Oregon and Washington as a contractor in order to be a more responsible artist entrepreneur to be bonded, licensed, regulated. So I would urge you to be very flexible in your consideration of small business. Thank you.

LEIN: Any questions of Mr. Macintosh?

BARCA: I do have a question. In your current residence with your art studio does your place of business take up 25 percent or less of the entire residence?

MACINTOSH: It's about 25 percent.

BARCA: So it works out about 25 percent?

MACINTOSH: Yeah, it's pretty close to that. I mean probably within 10 percent anyway. I've never really bothered to measure it actually. It took up more before I had a family.

BARCA: And that happens often. Well, the reason I'm asking is there is a particular limitation under one portion of the ordinance that includes that prohibition so that's why I was just asking the question.

MACINTOSH: I would like to use this forum to state that I would like to go into mediation with Mr. Burton in conjunction with the other landowners immediately involved in developing that easement. I just heard that the County has a free service and I'd like to do that.

LEIN: Thank you.

MACINTOSH: Thanks.

LEIN: Additional public testimony?

DEAL: My name is Shelley Deal and I live at 17700 NE 184th Street in Brush Prairie and my husband and I operate a landscape company from our property. We have a 20-acre parcel. Our home is at the back of the parcel and we access our home through a private

road. Our business doesn't use the private road at all, we have a driveway off the main, the main County road. Nevertheless, because we have a tractor we're happy to maintain the road. What with the neighbor in the back who works for the asphalt company and us with our tractor, we totally take care of it. We paid to have the front, the very front part asphalted so you didn't have to access 182nd on off gravel. As far as I know we've never had a complaint about our company. We have a nursery and a farm there in addition and we've raised our four children, I didn't want to be away from home. In this county it takes two incomes pretty much to keep a household going. I didn't want my kids running the streets, I wanted to be home. Even when they were in high school, I thought it was critical that I would be there when they'd come home from school.

And, you know, so many of these issues sound more like good decent people issues and good neighbor issues almost less than business issues, that if a person is considerate of the people around them, we go out of our way to be good neighbors and our neighbors go out of their way to be good neighbors to us. They'll call if somebody's in our nursery stealing plants, you know, in the middle of the night or something because they're -- actually one of them is pretty close to the actual nursery. But, you know, as our business grew over the years we didn't even realize that we were not in compliance with some kind of regulation.

We bought a big enough piece of property that it's really quite attractive when you have your blueberries and your trees and everything. And we take good care of it, we always get comments on how neat and tidy and all that we keep our property and, you know, I would just like to -- certainly like to continue with what we're doing, it's been our livelihood for, my husband's for 25 years. My oldest son works for us, we have six other employees that we pay well enough that some of them are buying homes, they're supporting their families, we certainly pay a lot in taxes as far as, you know, running our business properly and paying everybody we're supposed to. It would be crushing to us to have to move on.

The last five years have been difficult, the economy has not been good. Even having been in business for as long as we have, we see a real decline in our business, not so much in the work but the fact that we have to bid our jobs so low to get them that our profit margin is so slim that we're just hanging on, don't want to lay people off, they depend on us. Our employees have been with us some of them for 15 years. And I would just really like you to be lenient, consider -- Mr. Lewis, I believe, had some excellent ideas and I would, I would like to be able to comply and work with the County and still continue to do the job that we do and do a good job and support our families and continue doing what we're doing.

LEIN: Are there any questions of Mrs. Deal?

BARCA: I have a question. Who are your customers?

DEAL: Well, the only customers that we have come on-site would be people that come to

our nursery or to our blueberry farm. And the blueberry farm is like a month out of the year, but we have occasional people come into our nursery. But other than that we don't, you know, we're leaving the site, we load up our plant material and we leave so the actual traffic even off the main road into our property is very limited.

BARCA: So you do landscaping --

DEAL: We do landscape work.

BARCA: -- commercial type landscaping?

DEAL: We actually did this building, which I'm quite proud of, I think it's very nice.

BARCA: It is very nice, yeah.

DEAL: We do commercial and residential. We prefer to do residential but it's gotten to the point that we couldn't keep going on residential only, we had to get into that commercial realm. But whatever we're doing we're just, we're loading up our plant material and leaving our property.

BARCA: So the majority of your work is away from --

DEAL: Oh, absolutely.

BARCA: Okay. Thanks.

WRISTON: What are you zoned? Do you know?

DEAL: Excuse me?

WRISTON: What's your zoning on your property that you're talking about?

DEAL: I'm sure it's agricultural.

WRISTON: Is it agricultural?

DEAL: It's been in agriculture. We have about 12 or 14 acres still in blueberries.

WRISTON: Well, with blueberries and landscaping and all that, does this home occupation ordinance apply? I thought agricultural was a different --

AUDIENCE: It's already permitted, it's ag.

EULER: Ag and forest uses on ag and forest property and I think ag to the extent it's

allowed in R zones is exempt.

WRISTON: Yeah, that's what I thought. I mean, okay. I just wanted to make sure we weren't getting too out of control.

EULER: Correct. If you're farming on farm land it's --

WRISTON: Okay. Good. Because if we had to bring all the farmers in and everyone who had roadside stands and you pick and cutting trees and things like that, then we're really getting out of control.

EULER: Yeah, silviculture and roadside stands, those kind of things are also mentioned in the Code.

WRISTON: That's what I thought. Okay.

MOSS: While those are exempt, the landscaping part of this is not.

WRISTON: The landscaping side, yeah. I don't know. That to me would be -- we might want to talk about landscaping a little. A nursery, where's that?

EULER: Generally speaking this was a, this took me back when we started, when I started with the process, you essentially need a home occupation in any zone, rural zone, but for different, for a different reason in R-5, 10, 20 I think the premise is the primary purpose of R is residential. If you want to have a business that's a home occupation, you need a permit. And when I looked at the fact that you needed a home occupation permit in resource land, I thought this is nuts because there's so many things you can do permitted outright on resource land like running tractor or a logging operation or a chipper or whatever it is might have far greater impact on neighbors than a foundry, but the explanation I got was the reason you need a home business permit is we want to protect resource land for resource uses, so if you're not doing something on resource land that's not a resource use, which could be landscaping or something that's not related to the use of the land use, the designation, you'd need a business permit.

WRISTON: Isn't a nursery related to an agricultural use?

EULER: Certainly. I don't think anybody would argue with you.

WRISTON: Sometimes I wonder whether we just want fees. I don't want to be skeptical, but I mean --

EULER: You're not alone.

WRISTON: I know. Right on. You'll hear more of that.

EULER: One of the difficulties we've got are the what we've called for lack of a better term "the hybrid operator," somebody who started with a farm and/or a forest operation, but because of the economy found that a job or two here and there doing an excavation or a septic tank was okay and then pretty soon it turned into hiring somebody to help out and then that became the majority of the business. And there's --

WRISTON: Well, we want our cake and eat it too. I mean we say that --

EULER: It's a typical --

WRISTON: -- agriculture is a viable use in this county and yet we're trying to pull this stuff and we can't have our cake and eat it too. At least not in my opinion so.

LEE: I'd just like to follow up on your fees comment though. We do hear that that is a County motive, that is not what the agenda is. The fact is we do have a policy that was reviewed at the work session that calls for cost recovery on our fees and that is the process we go through through the Board each year.

WRISTON: Well, it depends on the extent of the review that is necessary. I mean it doesn't -- I mean you've decided that this is the fee that's required for the extent of the review that you've decided is necessary and we haven't decided what extent the review is necessary.

LEE: Yes, but that is the operating policy.

WRISTON: No, I understand. I understand what you're saying but, I, yeah. No, I understand. I mean we say that agriculture is or is not, I mean, and then we're going to force fees on them on top of that and say that a landscaping business can't exist without going through a home occupation or something like that and maybe it's exempt. I mean I'm just pointing those things out so. Okay. Thank you.

LEIN: Any other questions of Mrs. Deal? Thank you very much.

DELEISSEGUES: Thanks. Thank you.

LEIN: Additional public testimony? This gentleman has been trying to get up.

GOFF: Hello, my name is Howard Goff, I'm at 1314 West 43rd Street, which is actually in Vancouver City.

BARCA: Can you scoot closer to the microphone, please.

GOFF: Can you hear me now?

BARCA: That's a little better. That's great.

GOFF: Hello. My name is Howard Goff, 1314 West 43rd Street and that's in the incorporated area of Vancouver and we're currently looking to relocate into the county primarily for two reasons; one, because we have a home based business across the road from us which is very obnoxious, and, two, we are a home based business which is currently illegal under Vancouver Code because we have employees. Just a couple of things. The -- and I guess my main comment is in the percentage ownership and I've noticed it looks like in the RETF Proposal that's not well-defined. In the RBC Proposal the speaker indicated that they were talking about a 95 percent ownership requirement.

One thing that you, I think, should be considered our business happens to be technology, we do computer work for companies with two employees. I think these businesses are relatively low impact for the neighborhood and the start-ups oftentimes are partially funded by investors and quite possibly to a degree greater than 5 percent and I'm not sure that in trying to protect the neighborhood through performance standards that a 95 percent ownership helps ensure that as much as put an additional burden on the high-tech businesses which are starting up and that should probably be looked at. I do agree that things having -- being able to speak on both sides of this issue because we've been in a three-year battle with our neighbor trying to and using Code Enforcement. Code Enforcement has found it quite difficult to bring this situation under control because of loopholes in the existing code and it's easy for those of us business owners to say we'd like to see a loophole for each one of our respective uses. And we are good-intentioned people, and I think most of us are, and there's a very small handful which are not good-intentioned people and will use those loopholes and I think those loopholes need to be looked at carefully as well. I have a couple of pictures of the, if you want to pass these around, that are just images out of our -- off of our property with the exception of a crane that they use for dismantling vehicles, it's an auto repair and wrecking yard that's being operated. This use for the most part as far as I can tell would not be allowed under any of the proposals so it may or may not be something you're interested in.

My main point was the ownership issue, to make sure that you understand that, A, I think that, I think quite possibly it would be a mistake to allow a business to be run out of a residence where no ownership was, where the resident had no ownership in the company, but it may also be a mistake to require a very high percentage of ownership. Thank you.

LEIN: Are there any questions of Mr. Goff?

MOSS: Do you have a suggestion on what might be an appropriate amount percentage?

GOFF: I would suggest maybe looking at it for a majority ownership combined into the residence. It could be a husband and wife team who have a combined ownership of

greater than 50 percent. Investors, you hope as an owner of a business that the investors don't own more of the business than you.

LEIN: But sometimes that doesn't work, does it?

GOFF: It doesn't always work that way, no. Any other questions? Thank you.

MOSS: Thanks.

LEIN: Thank you. Other public testimony?

LENOIR: My name's Charles Lenoir and I live at 17609 NE 72nd Avenue. And I was here at the last meeting and spoke briefly and I don't want to repeat too much of what I had said then, but maybe an update on where I'm at in my situation with my business. I had -- I've been in business for five years and where I left off I was -- had still been shut down. Well, I am still shut down now and had been struggling to get the \$2600 to get my permit and when I had came to the meeting I had found out that it wasn't 2600, it was, oh, 670 for the evaluation of the paperwork to start with and I had just barely scraped together that, those funds, by selling things and working odd jobs or whatever I could find. But since then, let's see, I have ended up going to the hospital with chest pains and having what we thought was a heart attack and building up \$7,000 worth of doctor bills and go on welfare to help out, the hospital set us up with welfare to help pay for the medical fees and to get some assistance with food and, but I continue to struggle.

I tried working for a week off away from the home with just a part job, just a one week thing that somebody needed some extra help with and left my wife with the needs of the six children and being, having been there for five years to fill in for her wherever, you know, with our situation with all the different needs of our children. Anyway it didn't, it didn't work out, it was pretty overwhelming. So I'm still struggling to try to get the other money and subsequently have kind of went backwards somewhat, but I'm hopeful that either I will get the money or that maybe the laws will change and let me get back to work. I suppose that's all I have to say. Do you have any questions?

LEIN: Any questions for Mr. Lenoir?

MOSS: No.

LEIN: Thank you very much.

MOSS: Thanks.

LENOIR: Thank you.

LEIN: Jim.



MALINOWSKI: Jim Malinowski, 23514 NE 388th Circle, Yacolt. I was part of the coalition and Matt Lewis has made a good, you know, summary of where the coalition stands on it. I'm really here tonight representing Fish First and several other people who are not here. I think the first thing I'd say is I'd urge you as you deliberate on this I think you need a -- you shouldn't put any rural business out of business without a compelling reason. In this job climate I don't see any justification for that. My father ran a small construction business out of our home place near Amboy for about 35 years and as far as I'm concerned having grown up in this area those kinds of businesses are part of the rural character of the county and I think the GMA requires that the County promote such rural businesses rather than put restrictions on them and put them out of business. We give a lot of lip service to the GMA and yet there's very clear language in the GMA that requires maintaining rural character and promoting rural business, so I urge you to take that into consideration.

One of the things that concerns me is there are many, many of the people who are going to be hurt by the task force ordinance are not here tonight. There were three that I expected to be here. My brother Rick is the contractor that's working on our current Fish First Habitat Restoration Project, he probably worked until dark or later, we're trying to get that project done before our construction window closes. The task force ordinance will put him out of business and if it puts him out of business, it will put me out of business. I'm a volunteer, but I'm certainly not going to continue doing that kind of public service if contractors like Rick are not allowed to operate.

Another person I expected to testify tonight is Pat Lee. Pat is, not this Pat Lee, Pat's an Irish immigrant logger who just has been displaced, no longer can find work logging. He worked for small construction companies like my brother's and his point would be he's 60-years-old and he has trouble finding work with big construction companies, they won't -- because of age considerations they won't hire him, small outfits like my brother's will hire him. And he's a very productive worker, he performs, but his question to you is why would you want to take a job away from someone like him.

And finally, another person that I've talked to that I thought would be here is John Clapp. I don't know how many of you know John, but John and I were on the wrong, on different sides, not wrong side, we were on different sides on the comprehensive plan. He was strongly in favor of the downzoning on the thing and I was on the other side, but John and I have got to know each other through the -- we're both on the Lewis River Hydro Relicensing Project and John was going to come here testifying in favor of the Coalition Proposal. His comment was, and I think there are a lot of us on both sides of this comp, you know, the zoning issue that want to see rural people survive, and John's feeling is if you don't allow people to make a living off their land, somehow you're just going to increase the pressure for residential development. And Annie's Berry Farm is an excellent example of that. We say we support resource uses, we say we support rural activities, and yet what I see is far too often residential considerations are trumping traditional rural life-style choices.

So those are three people with different perspectives who I expected to be here, but I think if you went out to the rural areas you would find that most people want to see this rural business option available and don't understand why the County wouldn't want to encourage rather than discourage that kind of activity. Thank you.

LEIN: Any questions for Mr. Malinowski?

WRISTON: Yeah, Jim, Pat Lee, not this Pat, what type of work does he do out of his house? I mean does he have employees or is he a --

MALINOWSKI: No. No. He's a --

WRISTON: -- no see, no smell deal that Mr. Burton testified to?

MALINOWSKI: No, Pat is a, Pat basically is a laborer but a very skilled laborer. He does landscaping at times, but he basically hires out for labor. He really knows planting and he does an excellent job with our vegetation. He does a lot of the vegetation in the riparian zones we do.

WRISTON: But why would this ordinance prevent him from doing his business?

MALINOWSKI: Well, because he works for the kind of businesses like my brother's, the small home-based construction companies. He finds that he can't get work with the big construction companies because of his age.

WRISTON: But he does it out of his home?

MALINOWSKI: No. No. He --

BARCA: He works for his brother.

MOSS: No, his employer would be out of business.

WRISTON: Oh, okay. I'm sorry. I thought -- okay. Thank you.

MALINOWSKI: No. Yeah. His employer --

WRISTON: So his employer would be out of business?

MALINOWSKI: Right.

WRISTON: Okay. Thank you, Jim. I missed that, that's what I was trying to get at.

MALINOWSKI: And other employers, you know, he doesn't just work for my brother, he works for other small businesses in the rural area and he sees -- if they are out of business then he doesn't -- he sees he'll lose his job and so.

WRISTON: And the employer. Okay. Thank you. That's good.

MALINOWSKI: Again, they must have been working till dark or later.

WRISTON: Well, they probably are, yeah.

MALINOWSKI: And, oh, the one other thing, I did speak to a couple of people in the audience who say that they're reluctant to speak before this group because they're afraid they'll be singled out for some kind of retribution if they --

WRISTON: From this group?

MALINOWSKI: Well, not this group, but the County because they identify themselves as having a rural home business.

WRISTON: Yeah, I have that fear every day.

MALINOWSKI: But anyway, I'd urge you to adopt or recommend an ordinance similar to the Coalition ordinance. I recognize like Matt Lewis that there are probably some fine-tuning. I'm a little concerned about on the -- I'm a strong supporter of the requirement that private road there's some mechanism be provided for equitable maintenance of private roads. I'm not sure that the business owner should pay the full cost of arbitration. If a neighbor forces you into arbitration -- it seems to me that if a neighbor forces you into the arbitration, he ought to share in those arbitration costs.

WRISTON: Well, I guess I'd say I hope no one has any fear to talk to this group because this is a long-range planning group and I hope you don't have any fear to talk to us.

MALINOWSKI: Well, there are people that do.

WRISTON: Well, I don't think --

DELEISSEGUES: The retribution is long-range, it takes years.

WRISTON: Exactly, this is it. Gordy and Pat over there, they'll -- a scary group over there.

DELEISSEGUES: Yes, I have a question, Mr. Chairman.

LEIN: Yes, sir.

DELEISSEGUES: Jim, I do have a question of Pat Lee's employer. Would he be out of business if the current home occupation ordinance was enforced?

MALINOWSKI: Absolutely. And most people in the rural area would be out of business with the current one. Most of us didn't even know it existed, it was a total surprise to everyone out there that such an ordinance existed.

DELEISSEGUES: What in the proposed ordinance would put them out of business? What parts of that? And --

MALINOWSKI: Well, I think that the --

DELEISSEGUES: -- the second part of the question, I might as well ask them both, in Matt Lewis' talk about the Coalition's proposal, how would that modify and allow these people to stay in business?

MALINOWSKI: Well, I think the first place the matrix is very unreasonable, it sets very low limits, that's one of the things that would affect many many businesses, you know, that less than one percent of a property is allowed for business use under that, under that, under the Task Force recommendation. The limits on pieces of equipment is totally unrealistic for most, for certainly any construction, most construction businesses. And finally the fees, the exposure to fees, a lot of these businesses are operating on pretty tight margins and they just don't -- there's no way they can generate the money that would be involved if you get into these tens of thousands of dollars in fees.

DELEISSEGUES: Okay, thanks.

LEIN: Thank you, Jim. Additional public testimony?

HILL: My name is Thomas Hill, I live at 38010 NE Christensen Road in La Center. I was also a member of the task force. It's fine to put things on a matrix, but we all know that there's different circumstances for everything that happens. I've lived in the county all my life, third generation, my dad was a logger and we all know what happened to logging so I went into construction. 1993 I decided to try something on my own. And I lived at Mount Vista at the time and I couldn't have a commercial vehicle there, it cost me \$500 a month to rent a place. A year later I found the 5 acres up in La Center and so I moved up there and conducted my business from there thinking that it was legal.

Not until all this came up did I find out that I was an illegal business. People are out here trying to make a living. I wouldn't be in business with the economic climate that there is if my wife didn't work. And I've got \$175,000 invested in my truck and trailer trying to make a living. With the fuel costs, insurance costs, highway fees, it just gets really tough at times. Building permits in Clark County when they started was a \$1 registration fee and we've seen what's happened to that. What I'm afraid of is that future generations are not going to

have the opportunity if they want to stick their necks out to be able to even do it, let alone buy a house in this county. So I hope that, you know, everybody thinks about what's going to happen to the future kids coming up.

LEIN: Any questions of Mr. Hill?

BARCA: I have a question. Mr. Hill, who are your customers?

HILL: My customers?

BARCA: Yeah.

HILL: I work for different contractors in the county. I have no customers that come to my property. All of my business is done over a telephone. I do start my truck at 4:00 in the morning and leave.

BARCA: So you work throughout the rest of the county from your home? You leave and go do your business --

HILL: Yeah.

BARCA: -- throughout the rest of the county?

HILL: Well, not, the state of Washington and state of Oregon.

WRISTON: You're an independent hauler?

HILL: What? Yeah.

WRISTON: You're an independent hauler?

HILL: Yeah.

WRISTON: Rock?

HILL: Yeah. Rock, asphalt, whatever will go in there, that's what I'll haul.

BARCA: Okay, that's what I wanted to know. Thank you.

LEIN: Any other questions? Thank you, Mr. Hill. Is there any additional public testimony?

BARCA: One in the back.

HERIFORD: I'm Gregg Heriford, I live at 16115 NE 50th Avenue in Vancouver. I'm a

trucker like Tom Hill is. I just thought I'd give you some numbers to show you where we'd fall in that category up here. This just this blows my mind to look at what this should cost me if I was doing it the way that I didn't realize I was supposed to. Last year with my truck I made \$115,000, after all expenses were paid I took home \$34,000. When the price of fuel goes up one penny, it costs me \$1 every day. So if it goes up 10 cents, it costs me \$10 every day. If you -- if I had to pay these kind of fees, that comes right out of my pocket. I know people, a lot of people, don't understand how the business works, they think you can pass the fees on to your customer. I right now have a haul that is steady, it keeps me busy year-round, but there's already someone out there that's trying to get it and they've cut my price by 13 percent, so if you take 13 percent off if I had to match that price, that would come right off of my \$34,000 that I made so now I've lost 13 percent of that.

So if I had to spend this kind of money to do obviously what I'm supposed to do to stay legal, I'd be foolish to stay in business. I could go drive for someone else and make a lot more money, but I'm stuck being an owner/operator. I've tried working for other people and I can't get along with them, but I manage to stay in business myself. So I just, I have trouble understanding the fees. I've been in -- I've been in the trucking business on my own since 1976, I've lived in seven different places where I've parked my truck in my backyard, I've never had a complaint that I know of. In the future, you know, if you were to move seven times, have to go through this process every time you move, there again it's self-stated, you couldn't do it.

WRISTON: One truck?

HERIFORD: I own one truck, my son owns a truck that parks at my house too.

WRISTON: So you run two trucks out of there?

HERIFORD: We run together.

WRISTON: Mr. Hill, I missed, one truck and one truck?

HILL: Yeah, I've got one truck.

WRISTON: Oh, do you.

HILL: I have had complaints --

WRISTON: On the one truck.

HILL: -- while I was on the task force.

HERIFORD: Yeah, I only own the one truck, my boy owns the other.

WRISTON: Right. And you have one truck.

SMITH: How large is your property?

HERIFORD: We live on 10 acres with my folks. What I use as far as parking my truck or parking the two trucks is about an acre and a half.

SMITH: On an acre and a half to park two trucks or just inside of the --

HERIFORD: About an acre and a half is what my whole house and driveway and everything.

SMITH: Whole house and everything, okay.

LEIN: Any other questions? Thank you, sir.

WRISTON: Thank you.

LEIN: Other testimony? Young lady in the back, you've been trying to get up.

FAIRBANKS: I'm Brenda Fairbanks, run Daybreak Construction at 14501 NE Axford Road, Battle Ground, and I just wanted to say I agree with Jim. I've dump trucks and CATS and stuff as I have lived in this county all my live, that's part of the rural, that's what I'm used to. I've lived here 45 years and now I'm moving, I'm moving over to Idaho and Labor Day weekend I drove over there and, you know, I noticed even before there's a town, look at little farms and stuff and you see little dump trucks, little CATS, that's how it used to be here. Now I don't know why it's all changed and because I run a construction company, I'm just like everybody else, I didn't know it was illegal. I got shut down at my house. Now I look up here at this thing, after violation, okay, then I have, I put -- that puts me in that bigger category because I was got, you know, illegal to run my business.

I put up six-foot high cedar fence, three sides, I've put a six-foot high hedge along the front, they still turned me down after I paid, I've paid twice. And that was like, I paid like I think 1500 bucks or something and applied, went through the whole process and they said no. Okay. You can give us another 500 and then we might tell you no again and it's like forget it, I'll quit, I'll move. And I'm really happy to see that some people are trying to use a little common sense this time around because when I went through it there was no common sense.

They wanted me to put in a turn lane on Axford Road to get into my property. I said a pickup leaves in the morning and comes home at night. Well, you have a concrete company, don't you, yeah, but I told the guy that I was in the hearing that I was working with I said, he said, well, I seen that cement mixer, concrete mixer at your house, it's a little

one bagger. I said I don't use that in my business. And he says, well, you're in the concrete business, aren't you, and I said, sir, if I, if you hire me to come build you a driveway, I'm not going to bring that mixer and a bag full of truck, a truck full of bags, you know. There was no common sense used at all. And that's with the rules, the people who make them they don't, you know, they try to use common sense and they have a different notion. Somewhere down the road somebody else is looking at it who has no common sense and they are just fee, fee, you know, they don't even listen.

And that's how come I wasn't going to talk because it's a very emotional thing for me. I mean I've lived 45 years in this county. My dad's a contractor, I'm a contractor, that's how we were raised, I have three brothers and sisters, if I go -- and they all are contractors. And I thought about it, you know, while everybody else is talking about the neighbor who has the business private road, well, I have a private road next to me, I don't use it even though it's my property, it's for my neighbors to get to their house, I have my own driveway. But they're not contractors, they're not, they don't have businesses, but they have people that fly up and down that road. That has, you know, and a lot of rules are people are looking at it like the business owner, okay, but you have the same stuff with people that get away with it because they're not a business owner, like the speeding up the private driveway or, you know, stuff like that.

And right now I'm doing land home packages for manufactured homes and I got to think of who works for me, and I pay all my bills, so I put a lot of people besides my son and one employee. But there's the well driller who drills the well; there's -- well, Basil Rotschy, you all know him, does my septic; Jim, Northstar Electric, he's my electrician; the pump guy, Mike Juhola, you know, these are guys I pay every day and it's everyone of them is illegal. Maybe not Basil maybe, you know, but it's -- I mean we're trying -- we don't try to be illegal, we're just trying to be honest folks making a living and I just hope that everybody uses a little common sense in the Coalition plan. Thank you.

WRISTON: Thank you.

LEIN: Thank you, Mrs. Fairbanks.

MOSS: Thanks.

LEIN: Other public testimony? Are you okay? Do you need to take a break? Let's take a break before we come back. You wanted to testify? How many other testimony?

AUDIENCE: Yeah, I just wanted to give a few comments that was all an anonymous rural landowner.

LEIN: Could we take a break first? Is there one more? Sir, could you come forward.

AUDIENCE: I'd like to give a few comments as an anonymous rural landowner.



LEIN: Could you speak into the microphone and state your name and address, please.

AUDIENCE: Like I say, I'd like to give a few comments as an anonymous rural landowner.

DELEISSEGUES: "Anonymous" is the key word.

LEIN: It's anonymous. Okay.

AUDIENCE: I'll just read what I have. I believe the benefits to the County far outweigh the problems of small businesses. The problem should be mitigated as the need arises. Where you generally have no problems, you need few fixes. Barking dogs cause more problems than the businesses in Clark County noise-wise, you might say frustration-wise. There would be far more complaints on that than there would be from the small or people opposed to small businesses or having problems with small businesses, okay. And I was wondering why you're chasing the foundation of the rural way of life away. The rural people are a diverse group with diverse skills and that's the makeup of rural America. And the thousands of people chased out of businesses would fill the already crowded highways headed into industrial centers, do we want that.

Also all their employees would have to drive greatly increased distances on our already overcrowded roads to get to their work. Some displaced businesses will have to drive their equipment back from the approved areas back to the rural areas where they need to do their work and so you have a greatly increased amount of traffic of heavy equipment. The businesses, business buildings and equipment have no greater impact on rural areas than agricultural businesses. What is allowed for agricultural should be equal for all other home businesses. And I was also wondering what justifies a taking of large amounts of money for fees from thousands of rural businesses. That amounts to a tremendous amount of money, why is it needed. Thank you for hearing me.

LEIN: Thank you. Any questions? Any further public testimony?

HOMOLA: I'm Roland Homola and I live on 1718 NE 209th Street, Ridgefield, Washington 98642. And my property was mentioned already today. And as far as my home business, it's a small business. I have two employees, one which is an apprenticed auto mechanic which soon will be a technician, which I'm an advanced master certified technician myself, and I'm trying to make just a living for myself and hopefully in the future a family. And as far as a home action, as far as being living there, for one person living at a home in a trailer probably, there's probably not very much action. So it very well may look like that there is no one living there, but I'm not saying that as far as full-time residence there would be, only be one. A lot of things that I would like to take care of that I had plans for my fence and my property to improve the looks as well as traffic has been put on hold because of fees that were put out by the County that were so high that I couldn't use the money that I had to improve the looks of my property and my home, so I needed to put a hold and save as

much as I could so I could put forth all this money to be able to become legal if I could in the fees and process that it takes to start an application for a home business. And as far as previous owners of my property and my building, the building was there for many years and it never has been increased at all. There was a machine shop in the building for a few years and the owner of the machine shop did not want to live on the premises so he took his business elsewhere because he didn't want to live on the premises, which in the use of a home business you have to live on the property, which is what I want to apply to.

And I just wanted to basically sum it up as if my neighbors want to come to me and if we can work something out, that would work out great. I would be willing to work hard to fit in well with the neighbors and also live in a rural area as well as everybody else that is in the rural area. So if this is what it takes, I'll do everything I can to stay where I'm at and put forth as much effort as it takes. Although it does, it does take some serious considering because I have to find out where the money needs to go to operate the home business and also make my property which -- make it so it would not be an eyesore and limit my access as far as during the day and night.

And also what was mentioned that there's a lot of traffic, which on my schedule that I have is only five days a week from 8:00 to 5:30 so I am there, but I also have my home there so I have to be there and it's definitely something that we got to take a look at because if a person lives there, he's going to be going in and out. If you can count how many times you go in and out of your own home most every day, you probably go in and out and you need to count those as well as how much traffic is for the business too. So it's something that you should consider. And we do want to make it fair for everybody, not only just for the businesses but for the people living here in the rural areas that do not have home businesses, but it's something that it would be real hard to work out with the neighbors if they do not want to speak to you or you don't want to speak to them, which it would be nice if everybody could get along, but there is no solution to that, although we have to try hard at what we can do and that is figure out what would makes something that will work for -- as much as possible for everybody that's there, here and Clark County. So any questions?

MOSS: If this ordinance that's being crafted here were to put you out of business, Mr. Homola, to put you out of business in your present location, what options do you have available to you?

HOMOLA: As far as moving to a different location?

MOSS: Right.

HOMOLA: Well, the options for me to move to a different location as far as a commercial building and property either leasing it or buying it, it is a very high cost for someone that's trying to start out. I've looked into it severely. We have some options out there, but it's not, there -- it's not as easy to do because there is as far as even impacts of changing your business because people -- my customers that I have are normally people that do not want

to bring it to a commercial place, they want to come visit my home or my place. And I know many of my customers personally as well as being business with them.

And also I wanted to talk about maybe deliveries, if there is any room for deliveries, or do I have to leave my property to go pick up stuff to bring it to my place or what room is there for that. I -- one of my employees which works in the office is my sister, she is basically does most of my books, tries to do as much as she can, and I try to do most all the other stuff in the shop. And my apprentice does a lot of shop cleanup, helps me with the vehicles to move them in and out. We try not to have as -- we try to have as little vehicles as possible, although sometimes it does get up to an amount, a certain amount of vehicles. I heard mentioned maybe 7 or 12, some of those vehicles are mine and some of those vehicles, one of those vehicles is my sister's, one of those vehicles is my employee, and how do you go about limiting the amount of vehicles. It's a real tough situation.

We should have -- as far as visual, I would like to change visually as much as possible, but we need to figure out the difference between what price and how much money I could put into a permit and how much money I could put into the property to make it look better as far as visually. And I did use a fence that was definitely put up at a previous location. I was able to buy it for about half the price of a new fence and I had plans to replace the slats to make it a very decent looking fence and therefore I couldn't do that because I have to save and apply it to my fees for my permits.

LEIN: Any other questions of Mr. Homola? Thank you.

MOSS: Thanks.

HOMOLA: Thank you.

LEIN: Any other testimony? If not, we'll close the hearing to public testimony and we'll take about a five to seven minute break and then we'll come back for deliberations. Thank you.

(Pause in proceedings.)

### **RETURN TO PLANNING COMMISSION**

LEIN: We'd like to reconvene the hearing. The issue of home occupation has been heard, back in the laps of the Planning Commission. Are there questions of staff or comments from members of the Commission?

WRISTON: No, go ahead, Lonnie, just make it short.

BARCA: First you say go ahead.

MOSS: I'll be very short.

LEIN: Use your mic.

WRISTON: Go ahead.

LEIN: Use your mic.

MOSS: No comment at this time.

WRISTON: Oh, gees.

LEIN: I think you can tell we're struggling with this one.

SMITH: How do you propose to attack it? Do we go down the left column features and take one at a time or there's so many factors in every conclusion, we haven't had one quite like this before.

LEIN: Well, we could use the comparison chart as the issue and see if we can come to agreement on anything with respect to the applicability, the home occupation types, the prohibitions, the private roads. Does everybody have their copy?

MOSS: No.

LEIN: No. Gordy, do you have any other copies of this or some that we could borrow from the audience?

EULER: How many did you need?

MOSS: I need one.

LEIN: One, two, three.

MOSS: Thank you.

LEIN: Thank you very much, appreciate that.

MOSS: Yes, thank you.

LEIN: Thank you. Did you have a comment before? Do you want to start?

WRISTON: Yeah, well, I'm going to go from a broader perspective and you guys tell me if it's too broad. But in the testimony we've heard one of my biggest concerns is going to be

what do we do with the existing businesses out there today. And we've heard a lot of testimony from people that are saying that they have these businesses out there and they didn't know, you know, the rural area, they didn't know that they had to do anything to make them legal, they referred to as illegal, which is probably I think some of the businesses that have been in existence for a long time that's illegally almost seems to be a harsh way to put it. But I guess before we go through these categories we need to talk about what do we do with these businesses that are out there today. And I guess what I would suggest is some sort of -- at least some sort of amnesty period where for little or no fee these existing businesses can come in and get compliant under today's ordinance if that's possible or at least look at what is going on out there today and how it applies. I don't know whether these businesses can get compliant under today's ordinance, I assume they can, I mean the ordinance is pretty broad, but at least look at grandfathering these businesses for some period of time.

And then the second question is going to be the fees. These fees, you can't expect a home business with one truck or two trucks or what have you to pay \$24,000, there's no way, I mean you might as well shut her down, so we need to figure something else. There's just no way. I mean I know that. I mean I know trucking so I'll -- fortunately we had some testimony from businesses that involve trucking, so I will say that their numbers are entirely accurate and believable. So, I don't know. If I had to pay those fees today I'd have to question that myself. So you have what are we going to do with the businesses that are out there today, and then after that what do we realistically expect businesses that are going to be doing these home occupations to pay and what level of review warrants \$24,689 or whatever. I mean, you know, I mean the Type I, Type II after violation, whatever, but I mean what level of review are we really expecting and what's that going to do to these businesses.

And then you've got the third issue I would bring up is we've got the rural and the urban split. And I agree there needs to be a split there probably in the home occupations. These home occupations are a rural way of life, they're also an urban way of life, but there's probably a division there and we need to talk about that as well and how we deal with that. Before we go down these categories I'd like to throw that out.

LEIN: Well, just a comment on the fee issue, I think that the fees are traditionally set by the Board of County Commissioners. I think we certainly have the ability to recommend to the Board either they shouldn't exceed a certain number or --

WRISTON: Right.

LEIN: -- they should be as low as possible. I think we could take that one and deal with that quicker than the other two.

WRISTON: Yeah. And that's fine. I mean --

SMITH: But the problem --

WRISTON: -- they rarely --

SMITH: The problem with the fee is I see the only real reasonable way to lower that is by lowering the amount of review. Because if we're going to cut them a deal on the fees, that just means the fees are they're subsidized by the public because the rest of the public who do not have home businesses are going to have to pay the fees.

WRISTON: Well, maybe we ought to look at that. I mean what amount of review is necessary. At times just going through the process, as I go through the process, sometimes the amount of review and the repetition and the things we're discussing doesn't really merit exactly what we're paying. So, I mean, I'm not going to get up on my soap box, and you don't want to hear me go into that, that will be entering a whole other realm, but perhaps we can talk about it in this.

LEIN: Well, I think some of us have a concern about the amount of the fee and the people who are going to be making the application are not sophisticated clients that work with the County on a daily basis. The type of information that they would be bringing to the County may time and time again not meet the County requirements. So how many times do they have interaction with staff which takes time of staff and yet they probably cannot afford to go out and hire a consultant because that would just add fees on top of fees. So how do you create a balance that allow people to come in, they know exactly what they have to bring so that the County staff has a minimum amount of time to review the information and create a situation that you can successfully work with that potential homeowner or a business owner, that's a concern.

WRISTON: Well, maybe it needs to be done, I mean, like the County does fences and things like that, maybe it needs to be a standard. I mean when you apply for a, it's been a long time, but when you apply for a fence or, it used to be anyway, you could actually pick up standard drawings and things like that from the County and says, you know, if you can kind of fit it within these guidelines, we're going to be a very quick review, you can almost do it as a counter type review. Going through a Type II review for some of these businesses, unless it hits a pretty significant threshold seems to be a pretty gruesome process from my opinion, my standpoint.

SMITH: Can we ask staff. If these original permit applications met standards the first go-around, how significantly would that limit the amount of overall review you do for a project and thus the fees you would have to get?

EULER: Say that -- ask the question again.

SMITH: Okay. We were talking about the problem that a lot of the folks aren't sophisticated, they don't do this type of thing, it's a one time deal for them, they can't afford

the consultants, if there was some mechanism where when they made their original application that it was up to snuff and it wouldn't have to go back and forth between you and the applicant several times, would that significantly reduce the time of review and possibly make a difference in the fee structure? Is that about right?

EULER: I think it would depend on the sophistication of the proposal which is how fees are set presently. That's a hard question to answer blanket so let me, if I may, try to shed a little light on this from my perspective. There's a fundamental question, I think, that is contained in the Purpose statement of the ordinance, and I want to say that it's not only in the Task Force Ordinance, it's in the Modified Task Force Ordinance, it's in the Rural Business Coalition Ordinance, and it says if we agree with this and this is a, this may be a place to jump off because it will relate to your question, Carey, home occupations are activities commonly carried on within a dwelling and/or accessory structure by a resident or residents, residents who occupy the dwelling where the occupation is secondary to the use of the dwelling for living purposes, that's right here in the purpose statement, right before you get to any standard, now because the County fee structure right now is to say if you want to have a residence you're exempt from site plan review, you're exempt from stormwater requirements, there is a number of things we don't require of somebody who wants to build a house and live in the rural area, there are no fees associated with that because we don't require it.

The things that were on this chart that relate to stormwater and site plan review you would pay for any business whether or not it's commercial or industrial, and inasmuch as there may be some businesses on rural property that are start in conjunction with a house and have gotten to a certain size, the idea is that they where there would be a different standard if we required site plan and stormwater of businesses on commercial property but not similar sized businesses in the rural area. So we do take into consideration, I think, in the fee structure the notion of you can build a house on a piece of property. The question becomes, then, if we start to load up the property with development that otherwise qualifies for as commercial or industrial, that's where the fees kick in I guess and it's -- so I guess I'm throwing out two concepts.

One is are we talking about something that is clearly a home occupation, perhaps we should retitle, we should call them a home base business, maybe home occupation is an outdated concept, or maybe we've got both. I think the task force recognized that there are different kinds of businesses. There are people who have people come to their home and work during the day, there are people who have employees come and everybody leaves and then comes home at night and goes home, there's a variety of different kinds of activities that take place and again looked at the amount of activity sort of an overall level without specifically focusing in on any type of business. So I don't know whether that clarifies or muddies the water, but I think the philosophy at least was the original idea of home occupation was something that was ancillary or secondary to the use of the property as a residence.

LEIN: I can see where you're going. I guess the problem I have with it is applying the same philosophy to the light industrial and commercial for new development because so much of this is existing that we're talking about in rural area.

EULER: Correct.

LEIN: I would probably agree with you if it was going to be all brand-new, but I think the part that complicates it for me is the fact that we're talking about X number of businesses already on sites.

EULER: That's correct. I would -- I agree with you.

LEE: But I would also note that new businesses could start, I mean as, all the variations that you see liberalize what the current home occupations ordinance is and would allow a greater range of businesses than what's currently allowed by the code. So there will be, I believe, whatever is adopted here new businesses that will seek to locate whether they're home based businesses either in rural or urban areas that will fall under that umbrella of new development. So maybe an option is to take, you know, sort of two tracks, maybe there is some different rules that might apply or a period of time to come into compliance with whatever standards may be adopted perhaps at a reduced fee, whatever. I mean I think that is a track that you certainly could pursue in terms of trying to reach some agreement on where to go with this particular ordinance.

BARCA: I think in that regard that was some of what I had also written down, that despite some of the testimony that we've received in the last couple of hearings I don't genuinely believe the citizen volunteers that created the task force and met 19 times on their own volition, nor the County staff who put this forward, or for that matter even this body is making an attempt to put people out of business. If we didn't want to try and come to resolution on this matter in an equitable fashion, we could have dodged this meeting altogether and gone to Jimmy Buffet or something, but we didn't. And I think the idea that being sensitive to the aspect of the businesses that are in place and making that choice to operate in a rural setting has to be taken into account, the jobs that are in place has to be taken into account, but we also have to set a bar for the future that creates an equitable platform for individuals choosing to enter into business also.

I'm not in agreement with the Coalition's determination that this wouldn't foster a certain amount of exodus from an urban area where people own homes and have commercial property that they're leasing or owning and moving to the rural area, I think it would be genuinely an aspect of having to weigh and balance whether there was an economic reward for doing such a thing. And based on testimony from people who came forward tonight, a lot of them said they made the choice to locate out of their home. As much as they enjoy the home life-style there was also an economic advantage to them to do this choice. I don't want to put us in a position of harming a different constituency for the sake of rendering justice to a different constituency in the future.



So what I would really like to move forward with is a concept in which we create a certain amnesty or allowance period for those people that are in business today that have found themselves outside of the bounds of the existing rules or the proposed new rules and make it as accommodating as possible to get those people into business in an equitable fashion that also allows resolution for the neighbor impacts, which based on the testimony that's come forward is more than what was alleged when we started this. We have to take these problems for compatibility into account as well. We don't want to end up penalizing somebody who chooses the same rural life-style because we can't find an equitable solution to a private road issue or the aspect of screening and so forth. I think we have to have certain performance standards that really render the ability to come to complete closure on neighbor impacts. If we can do that and split this up to the aspect of what is is and deal with that and then create a foundation or a footprint that allows us to put rules in place for the future, then I think we'll come as close as possible to trying to figure out how to create a win/win in this and have the least amount of impacts towards the people that are doing business today.

MOSS: I don't disagree with that at all, Ron, I'm wondering just for discussion purposes if we ought to consider for a moment what if we gave amnesty to every existing business out there in the county or we recommended that, what if the County Commissioners were willing to go along with that and tomorrow all the existing businesses became legal, let's just say suppose we did that, we know that there are some businesses out there that are not good neighbors, we know that there are probably some egregious violations of good neighborhood conduct out there, and I'm kind of struggling with that and I think everybody that we've heard testify in here has the same difficulty with that. I'd like to have some discussion about how could we control those bad businesses so that we wouldn't just validate their existence.

WRISTON: Make them come in within -- give them a year or whatever it is under the existing ordinance and make them come in and apply under the existing ordinance, under the existing standards.

MOSS: Well, you know, I'm suggesting as bookends here, you know, we have a lot of latitude here. At the workshop I was surprised to hear Rich Lowry say that we could, that the County could grant general amnesty to any and all existing businesses out there and declare them to be legal.

WRISTON: But you do that and then you don't solve the problem that you just mentioned at the end of your comments.

MOSS: No. And that's the thing.

WRISTON: There's got to be some level of review if you want to solve the problem that you're talking about.

MOSS: Well, the question is does every existing business have to be reviewed or is there some mechanism by which neighbors who really have legitimate complaints about the businesses that are being conducted in their neighborhood have some recourse. I think the last thing that we would want to do is legitimize every bad business in the county, and yet to some degree I find the idea of giving blanket amnesty to businesses pretty attractive. And for one reason that hasn't been discussed here and that's that we know that there are hundreds, if not thousands, of businesses out there. If every one of those businesses had to go through a review process, the County doesn't have the staff to do that, it's impossible, it just wouldn't happen.

SMITH: According to this newspaper article there's 8,000 rural businesses is the estimate.

WRISTON: How many are permitted?

SMITH: It doesn't say. Although there was 7100 in 2000 so there's probably over 8,000 now because there was only 3500 in 1990.

EULER: We've issued 106 home oc permits in the last four years countywide.

BARCA: Do you think that's most of them?

WRISTON: Oh, gees.

SMITH: That's two percent.

MOSS: No, I think we have to be realistic about this and say that it is, that is not even practical to consider that each one of these existing businesses would ever go through a permitting process, there isn't enough County staff to handle them all.

BARCA: And what I would suggest under those circumstances is I think the Coalition has a fairly adequate performance standards for nuisance that in my estimation would have to be the bear minimum threshold of review, and in the case of private roads and so forth I think then that threshold would have to be raised, but coming in for a greatly reduced fee for a limited period of time showing that the nuisances have been addressed in advance is probably the direction I was going with this. The amnesty would be described as blanket only from the standpoint of everybody at a particular period of time or beforehand would be granted it if they were to meet the performance standards that would be applied through code.

MOSS: How would it be determined if they did that though, on a complaint basis?

BARCA: No. I'm suggesting that they bring in documentation that says -- which addressing potential nuisances that this is how they've addressed them.

MOSS: Each one of these potentially 8,000 businesses?

WRISTON: He's saying they don't have enough staff to do it.

BARCA: Yeah, I do believe that we have to document the aspect that they're living up to their end of the agreement towards neighborhood compatibility. And I understand what you're saying, that even with a limited review that staff would be overwhelmed by it.

MOSS: Absolutely.

BARCA: I would think over a particular period of time depending upon what that amnesty period is staff would bring forward a recommendation that says what they believe they could handle and you would adjust your amnesty period accordingly with a -- I mean there's the ability to set a timeline based on particular temporal events whether your business license taken out at a particular date, whether you own a home at a particular date. I mean there's ways to say that you're either in the guidelines or out of the guidelines as far as that amnesty goes. And even if then takes a period of time afterwards to make the adjustment, I believe we could do that. And I've seen -- you've moved your microphone twice like you were getting ready to say something. Do you have something in that regard?

EULER: The intent, I think, of the task force, as well as the Modified Task Force Proposal, if there are indeed 8,000 was to write it so that maybe 4,000 of them are exempt or 3,000 are exempt, those we don't want to see. We don't want to see 8,000 people come through the door, that's part of the purpose of having the exempt category. There could be another, hopefully, large chunk of those that are Type I's which is come in, here's what you're doing, you pay your \$79, you're good to go. It might be 10 or 15 or 20 percent of the 8,000 that we'd really have to take a hard look at. But there is an administrative issue, you know, you are right, but I think the purpose was there were some we wanted to codify and say we don't want to, we don't want to see you, we don't need to see you, and that was part of our structure here in anticipation of that was to lighten our workload.

MOSS: There's a whole variety of ways that we could handle this.

BARCA: And the impacts, I think the impacts are a genuine aspect of what has to be seen, and Gordy pointed that out again, and I think there could be, you know, categories of this that's going to be exempt to the aspect of high tech in the house as one example as compared to the auto body places which there have been numerous complaints in that particular portion of the industry. There's a big difference from one to the other as far as what needs to be met, whether it's, you know, the aspect of nuisance. If you have just a couple of people arrive at your house and their cars get parked and they're there for eight hours and a couple of cars leave at the end of that period of time, that's a fairly low impact. If the business is one in which the individuals get up in the morning and they drive away

and they're gone for ten hours and then they come back home, that could be a fairly insignificant impact. You know, it's somewhat subjective, of course, depending upon what that business is and what gets done, but I think that we could try and move in that direction, try and talk about the aspects of are these impacts low impacts or are they higher impacts to the surrounding area.

MOSS: It strikes me that considering that we have the vast number of businesses that we have out there, and the numbers that have been thrown around here really don't surprise me, you know, I think that's pretty common knowledge in rural Clark County that there are hundreds, if not thousands, of businesses operating out there, but it strikes me that we have such a relatively low number of complaints under the existing Code even which is very restrictive and I'm wondering if we really want to get into an exercise which involves permitting most of those businesses out there or whether we ought to take an alternate approach and try to determine if we can through some kind of a complaint process, single out those businesses that need to establish that, that they meet the criteria that we're laying out here say for future businesses. I am concerned about the logistics of this. I don't see that we're going to get most of these businesses to come in even if we -- let's assume that we determine that it's going to take three years for staff to handle this increased workload, how many of these businesses are likely to come in in the first year of that period or even the first two years.

SMITH: That's true. Wait till the last month.

MOSS: You know, if it were up to me and I was operating, why not wait until the 12th month of the third year, there's little incentive to be the first.

WRISTON: Well, it's unfortunate Rich isn't here because, I mean, you almost have two choices. One would be general amnesty saying anything preexisting, and I'm not even sure you could do that, but it sounds like Rich said we --

MOSS: Yeah, Rich said specifically that that could do done. I was surprised at that.

WRISTON: And the other is is how a general nonconforming use works, which is if you're legally established at the date that the ordinance takes place, then I suppose you could move that date forward or backward or however you want to do it, at least forward, provided you're legally established and there's no expansion or no change in use, you can continue to be legally established. The problem is that of these 8,000 businesses it sounds like 7,900 of them or 7,800 of them aren't legally established because they would need some -- it depends on when they -- I mean I don't know. Some of these businesses on the testimony have been around for a long time, you know. I'm just saying, I don't know when our first, when did our first ordinance --

SMITH: '73 or something like that, wasn't it?

WRISTON: -- go into place? In '73 was the first time that you had to get a permit for a home occupation?

EULER: The ordinance as currently constructed for the most part can trace its roots back to 1973.

WRISTON: Really?

EULER: Yes.

WRISTON: Is that back in the FX zone?

EULER: The idea was the Board in that year took commercial uses out of the FX zone which left essentially the current ordinance with some modifications in place.

WRISTON: So I mean that's a tough, I don't know, but those are the -- to me those are the two ways. I mean I'm not sure there's any middle ground to -- I'm not sure what the middle ground would be to get a complaint driven.

LEE: Well, I mean the current process is a complaint process at this point in time. I mean we have suspended I think it's 89 enforcement actions over the last two years based on complaints.

WRISTON: Well, I guess we could say --

LEE: I mean we don't go out driving the streets looking for, we respond to constituents that come to us, then investigate. But in order to investigate and enforce you need some pretty clear standards as to what are we enforcing against. Where that bar may be could, you know, be higher or it could be lower, but I think from an enforcement perspective we need some bars so that if we do get a complaint, we do have the ability to go out and investigate it according to what those perimeters are and make a determination whether or not it is in compliance or not in compliance.

WRISTON: I mean, I guess, that you could say that as of the date it's adopted by the County Commissioners any preexisting business in those areas should they get complaints would need to comply with the ordinance as it existed prior. I mean it gets convoluted, but as it existed, you know, make sure they're established, whether they have a permit or not make sure they were established to the ordinance as it existed prior to the adoption of this new ordinance. I guess I'm trying to follow your logic of what you're trying to, what you're thinking we ought to do, because if you get a complaint, they have really two options. Or three options. You ignore them, you say fine, you existed prior to this date which they can prove through an invoice or testimony or something, or you say you existed and you had a permit or didn't have a permit or you met these standards or you didn't meet these standards as the ordinance existed prior to this date or you need to meet these standards

from this date forward. I don't know if I'm making myself clear, but it seems like there's, there's only -- there's a limited number of options that we can follow to make this fit and make it satisfy what the County's interests are.

MOSS: Yeah. Yeah, I think I'm following you. Just to clarify. I'm, you know, I'm not making a proposal --

WRISTON: No.

MOSS: -- I just kind of threw that out for discussion purposes because I'm not sure how you would solve with a blanket amnesty, which we could certainly do according to Rich, we could make every existing business fully legal.

WRISTON: And that doesn't handle the problems.

MOSS: No, that wouldn't take care of the problems.

WRISTON: Right. That's option one.

MOSS: Okay. Option two might be to still have a process by which neighbors could complain and those businesses might have to meet at least minimum standards. And I don't know what those standards might be.

WRISTON: Well, if you want to do -- I mean that would be taking the amnesty logic a little bit further. You'd say those standards would be as they exist today for an existing business prior to September or October or whatever the date the Commissioners adopt the ordinance.

MOSS: The ordinance as they exist today would eliminate most, if not all, of the businesses that we've heard about.

WRISTON: As it exists today it would in your opinion?

MOSS: Yeah, it would.

SMITH: Does the amnesty stay with the property if the business is sold?

MOSS: Well, that's a good question.

DELEISSEGUES: Well, the recommendation was no.

BARCA: And in regard to Carey's statement, that is one of the reasons why I really believe that there needs to be some type of permitting or registration of the existing business under those circumstances. I'm also still concerned about the aspect of the gentleman that had

the body straightening facility who's been put out of business as of this moment. I'd like to see us come up with something as quickly as possible to pass on to the Commissioners that would allow him to understand exactly what he needs to do to get back into business and to make the financial impact on him as small as possible because he's part of this existing community. But should somebody choose to also move into the rural area and open up a body straightening facility, I want them to be competing on equitable basis having to conform to the same type of nuisance performances and I think that that's fair. And I don't think we can do that unless the business is willing to really step forward and declare themselves a business operating out of a home in the rural area without some way of acknowledging the fact that they're there.

What underlies all of this is the aspect that a lot of businesses have chosen to move into the rural area to operate in the family setting to make a living and to enjoy that connection with their family, they're not competing at the same level that a lot of businesses who have moved into commercial property choose to. But one of the reasons those commercial businesses choose to have to dial up their business and really compete at a higher level is they've got a much greater overhead. If we don't make it equitable for start-up businesses in the future, I still believe that we're going to be giving a subsidy for people to move away from a commercial business start-up into a rural home start-up and allow their overheads to be dramatically reduced. If that's the choice, then everybody should be on the same playing field going in. The people who have already gone out and established their businesses and are here before us with this genuine dilemma of trying to be compliant should be given all the breaks that we can put forward, but to not acknowledge the fact that they're a business and that they are doing business out there I think is a mistake for future business and the incubation of future business.

MOSS: Well, you know, I certainly agree, but I think there ought to be a process by which if we were to offer any kind of amnesty by which businesses that exist right now could come in and get some kind of acknowledgment or some kind of license to continue to operate what I wouldn't want to do, though, is give a year period until and assume that all existing businesses would do that, that we've already heard a lot of discussion here about how little was known about the existing ordinance here that's been in place since 1973, that most of these people who started businesses out there in fact didn't know that they were in violation of any ordinances and I'm wondering how are we going to get anywhere close to a hundred percent participation of the businesses that exist out there. Not that I'm saying that we shouldn't provide this vehicle, but we also need -- if we were to go this way we would need to provide an alternate vehicle that if at some time in the future that these businesses were, that their right to exist was challenged that they could demonstrate that they had existed prior to passage of this new ordinance. And there are a variety of ways that that can be done.

BARCA: Right.

MOSS: It's not uncommon to have to demonstrate that a business existed back in the old

FX zone, you know, that went away in 1980, and that it's a legal nonconforming use because of that, you know.

WRISTON: The problem is that the ordinance as it exists we're saying that most of these businesses couldn't even be legal under the ordinance as it exists which creates --

MOSS: No. What I'm suggesting is if we did go to amnesty of any form for existing businesses, that all a business would have to demonstrate is that they were in existence prior to that amnesty period.

WRISTON: That doesn't solve your problem of problem businesses.

MOSS: No, it doesn't. No. No. I'm suggesting we need to figure out some way to do that.

WRISTON: Well, one thought would be to do that, do a complaint driven, so that maybe up to 8,000 businesses or 7900 or whatever that aren't permitted maybe 10 percent of them that are complaint driven are the ones that come in, maybe give them a reduced fee structure in the, you know, I don't know what it would be, but the \$79 or whatever under the existing ordinance but have them comply with the ordinance as we are attempting to solve today. I mean whatever we pass forward those complaint driven businesses if there's a merit to the complaints or whatever that they have to comply with whatever we move forward but it's under a reduced fee structure. Do you know what I'm saying? So that they can go through, if it's complaint driven, if it's 10 percent, if it's, you know, of the 10 percent, maybe even hopefully will be high, I don't know, we haven't heard from a lot of, but it, you know, so over the next five years you have 790 of them, I don't know, maybe that seems high, but that they pay a reduced fee and go through this process to get, to get permitted, so there's some form of deferral. Do you follow what I'm saying?

MOSS: Yeah.

WRISTON: And the rest, as long as everything is going fine but just keep that going and then the rest as long as it's going fine.

LEIN: But how does that help some of the businesses that we know like Mr. Malinowski's brother who won't be able to meet the criteria regardless of what happens?

WRISTON: Won't be able to meet the modified?

LEIN: The modified, depending upon what we set, you know, or do you create extenuating circumstances and set other standards that would allow them to continue their business but up things such as landscaping, buffering, that kind of stuff, but the existing, and they could be parked right next to their neighbor, so if you say you have to have a 50-foot setback, that moves their whole business.



WRISTON: But that's when you get into a policy decision, then, because who's to say that Mr. Malinowski's brother -- I mean is that the type of business we want to encourage in the rural area, and I mean we exempt his brother because he's preexisting, but the next guy that wants to do that can't do it under what we're passing and yet -- I mean that's where I get into this thing about having our cake and eating it too. We want the rural area to be rural and yet we're imposing almost urban standards and fees. As Gordy was talking about, well, if you do a commercial development, you got to pay stormwater fees and you got to do this and that, well, yeah, those are all -- that's all well and good, but those are all urban. I mean I know the rural area has them too, but I mean we begin to impose urban things on to the rural area. Are you following what I'm saying? Because what -- if we exempt we're saying that's a great business, what about the next guy. Are we saying no more businesses like Mr. Malinowski's brother. Not to pick on Jim's brother.

LEIN: Well, you may be doing that I mean.

WRISTON: I know. And is that a good thing. I'm saying that's where you get into a policy decision.

LEIN: If the situation is if you're going to exempt existing businesses entirely, for example, how do you then control new businesses coming in that you don't want to replicate the ones that people are complaining about.

WRISTON: Then you get into Ron's issue about competitive, I mean equal, equal footing.

LEIN: I understand.

BARCA: And I guess I'll just throw this out again the aspect of some of these businesses I believe would be deemed low impact and that some of them as we start to see the aspect of the nature of the business, the level of impact is going to start increase and that impact is mostly in the aspect of community and perhaps we need to just draw the line where when we start talking about this blanket amnesty works for a certain level of impact and then at another point you can't just say that blanket is okay, perhaps there's a level of performance back to the aspect of standards based on mitigation of nuisance that we would have to see is in place to be able to go forward.

I think for the aspect of existing businesses I could very comfortably try and work at a dramatically reduced cost for the sake of saying this investment is already made in the community, all we're doing is trying to legitimize it, we don't have to try and say the public share needs to be recouped, I think the aspect of them being in place has already proven public share. There should be a way that we can try and walk through this where we start to determine and in the aspects of performance standards and whether we can go with a blanket or whether we need to see some form of documentation in that regard.

DELEISSEGUES: You know, that's kind of what I was thinking too just sitting here writing

a bunch of stuff down, but it seems like that there's -- I came up with three levels of business activity. And we heard some testimony about many home occupations that nobody even knows they exist they're so inconsequential, so that would be -- Type I would be a business that's entirely contained within the home and maybe a 400 square foot outbuilding. By the way, you know, I think we owe it to the task force, and certainly to the work that the rural coalition did, to take a look at their work and see where they agree and I think where they agree we ought to recommend that, that there doesn't seem to be any disagreement. But, anyway, for those kinds of businesses I'd recommend total amnesty, just they're okay.

SMITH: Visits would be part of that too, number of customer visits?

DELEISSEGUES: Yeah. They don't have any employees, they don't, you know, they're self-contained owner/operator type of operation where you have home computer technicians, somebody working in the garage inside the garage and not outside, there's no complaints and no noise, they meet all the requirements that all three of you agreed upon, you know, dust, noise, nuisance, no problem with that.

The second level I had was a business where they do have equipment, maybe one to three employees, one large piece of equipment that the owner of the home operates, it's owner/operator, maybe that's a Type I permit. We're talking 700 and whatever it was, meet the Type I requirements.

Then there's large businesses that are operating in the rural area that have a number of trucks, that's a very commercial operation, maybe they should be a Type II, but in each of these cases I'm sure the volume of business would support paying the fees for the Type I and the Type II. And of course I would think most of these rural businesses of 3,000, I think most of those are probably self-contained, that nobody even knows they're out there, there's no complaints, no nothing, you know, the neighbors don't even have any awareness of the fact that those properties are being used other than for residential use.

WRISTON: I think in the rural area one of the big issues, though, is equipment. You've got a lot of owner/operator equipment or small --

DELEISSEGUES: When you get into equipment then you need a Type I. If the person just owns a big truck and he goes out and if he owns a whole bunch of, a fleet of trucks, you know, we're talking about a large commercial operation, however you want to describe that, and maybe that would be a Type II permit. But as Lonnie says, and I agree, we're not going to be able to look at all of these operations, we're going to have to define the level of operation that's going to require the staff time to go out and take a look at it and we're somehow going to have to define lower levels of operation that we can write off because we can't go look at all of them I don't think. How long would it take to go out and look at all of the businesses do you think with the staff that you have now?

LEE: Many, many years.

EULER: Assuming we knew where they were.

SMITH: Job security.

WRISTON: But, Dick, you can't look at all of them, but what happens with the preexisting? You're saying that someone that has --

DELEISSEGUES: These are the pre, these are the existing.

WRISTON: So someone that has three trucks needs to get a Type I or a Type II, it depends. I mean it depends where we draw the line. I mean three trucks isn't a fleet I don't --

DELEISSEGUES: And that's negotiable.

WRISTON: I know. But I mean that's -- and but you would say they would need to get a Type I or Type II permit of which -- what's a Type I, you got to help me read this with what is the cost?

DELEISSEGUES: Well, nobody disagreed with a Type I.

WRISTON: No, I'm saying I want to get a feel on these costs because I'm having a hard time reading this. Home occupation permit Type I.

DELEISSEGUES: Even if they say Minor Type I for Modified and the Rural Business Coalition of all HOs are all Type I. So rather than all of them maybe, you know, we could define what's a large business. And it could be done by volume of business, X number of dollars a year.

EULER: Again, the task force took a crack at that based on employees and amount of equipment, that was their discriminator, but they did, they took a -- they did try to differentiate between a I and a II and that's why, as I said before, there's an exempt category which we wanted to codify or set some standard to that, again negotiable, where we don't even want, we don't even care, we don't want to know, we don't need to know, there's no County interest and then it's the -- then when you get, and I think in terms of the Modified Proposal, having employees was where the task force came down in saying that's where you should start with a permit. If you're by yourself, you're working in your garage, you're self-contained, you're good to go, we don't want to know.

DELEISSEGUES: I guess my point here is that there's an awful lot of good work that was done by both the Task Force and the Coalition and I think we really owe it to them to go back and try to get as much out of that, harvest everything that they did that fits what we're

trying to do and use it before we start, you know, going off into the wilderness.

MOSS: I agree with you. You know, I would suggest that whatever we do here that if there were some general level of amnesty that we were going to recommend that it, you know, it certainly only applies to existing businesses and that we need, we need the standards for future businesses that, you know, how we might recommend that those be tweaked is, you know, one of our purposes in being here to deliberate this. But I am concerned, I'm thinking the thing that really brought all of this about, you know, how all this ended up with a different name, this started out as kind of the rural excavators issue and those really are the businesses that are most likely to get caught in the trap here of putting out large fees to come into compliance or at least demonstrate that they're in compliance. You know, we want to keep in mind here that the fees that we're talking about on this sheet are merely County fees, for larger businesses which are going to have to do the more sophisticated applications it's doubtful that many of those businesses are going to be able to do it on their own.

I can say that not in any self-serving manner, folks know that this is one of the things I do in business and I'm not looking to increase my market share of this kind of work, what I am concerned about is that there's going to be these fees that are County fees, there are fees for various consultants that may have to do work on this project to get folks permitted and then you've got the actual cost of compliance. I mean we've got some physical things that are going to have to be done to come into compliance. And I'm talking about the fencing and the screening and possibly paving, we've got a requirement in at least one of the proposals that's before us today that existing buildings would have to be permitted if they're used in this business and, you know, I've been wondering what that means, that we didn't even require building permits in this County before 1969 so if you have a 1968 home does that mean that you have to get a building permit for it. You know, I have some particular concerns about how you would go about doing that and what the cost of retrofitting a home like that, or even an outbuilding, might be to bring it up to code.

Now that's not to say that there isn't a legitimate concern there. I don't believe that we ought to have people employing other people in buildings that are unsafe. So some level of scrutiny I think is pretty appropriate, but I am concerned that all of the costs that might be involved in a permitting process here to legitimize an existing business is going to drive that business out of business. That's not to say that I have the answer to all of this, I wish that I did.

DELEISSEGUES: Well, of course the dilemma is that as Pat I think clearly stated the challenge is how do you come up with some safe harbor rules so the people know that they are in compliance or they know they're not, one of the two, without clearly defining it and then having it enforceable some way or another. You can't enforce it if you can't define it clearly. And if you can't define it clearly, then the people that are out there don't know, kind of like the problem we have now, whether or not they're in compliance. I mean it's got to be clear. The problem that I see is I don't think we can protect every business

that's out there and do what we're talking about doing. It's either total amnesty or come up with some requirements that are reasonable, I think that's a key word, and hopefully 90 percent or 80 percent, some high percentage of the businesses that we have out there are in compliance and just have to say that the other 10 percent are either going to have to become compliant with the ordinance or they are out of business. But that's better than what we have now where, number one, they don't know, number two, most of them aren't in compliance, and, number three, we can't enforce it. Or we haven't.

SMITH: If somebody is in compliance the County's aware of the business going on does that affect their property taxes? If they're zoned ag and they're actually doing light industry on their place?

LEE: That's a question for the Assessors. Specifically they would periodically visit and make their determinations as to what the value of the property is based on what activities are going on, I presume, and also what the surrounding values of like properties are.

SMITH: Not an issue before us, but it certainly is a factor. Or it could be.

MOSS: Well, I'm sure if the Assessor knows that that business is operating there, you know, there's personal property taxes levied on the equipment.

EULER: You probably remember the question came up with regard to cell towers and at least in that situation the small portion of a large site that was leased was considered to be a de minimis use, but Carey's got a good point. If somebody's operating a commercial or industrial establishment, that could conceivably at some point affect their property tax I would guess, but that's up to the Assessor.

MOSS: Well, generally, yeah.

DELEISSEGUES: Well, we'll turn it back to our Chairman.

LEIN: Thanks.

LEE: Side two.

AUDIENCE: (Inaudible).

LEE: I have to apologize but we're just not the arm of the County that is involved with that day-to-day so I don't want to put out any misinformation.

WRISTON: I don't, I don't -- I mean on these uses that we're talking about I can't see that the Assessor is going to -- I mean the Assessor looks at the highest and best use under the applicable zoning. I think it's going to go more along the line, I'm just venturing a guess, I think it's a nonissue, I think it's going more along the lines of the cell tower and all.

I mean if someone's running one or two trucks out of there, that's not necessarily going to mean that the next buyer is going to be running one or two trucks out of there or whatever.

I mean it will be assessed as highest and best use for the zoning and residential property or ag property or whatever it is. If it's zoned for commercial and there's a commercial business, then, yeah, it's going to be assessed at a commercial rate, but otherwise it's pretty tough to say that you're going to pass that on to the next user. I mean I think it's going to be more de minimis, that would be my guess. But my guess is it's a non -- it's going to be a nonissue for what we're talking about tonight.

DELEISSEGUES: Well, I think whatever we recommend has got to have some amnesty at some level because it just isn't going to work if we can't define a business of some operational level out there that we can just say it's not causing a problem, and I really think a self-contained within a home and maybe a 400 square foot outbuilding which is about the size of a garage on a piece of property and every part of that business activity takes place within confines of those two structures would be provided amnesty. And then the next level, and it could be way beyond what I mentioned, but going along what the task force recommended, you know, would be a Type I permit which isn't too costly, but it does bother me a little bit in some of the recommendations where they want to waive Health Department, some of the hazards that really affect neighboring properties as well as the individual's property. I think that's going to be another sticking point there. I don't think you can waive some of those things that, you know, have an impact on the neighbors and beyond that. So what do you think about that?

BARCA: In that regard, Dick, I agree with you and that was why my proposal was as you get away from the low impact type businesses, then businesses with impact need to bring forward some type of documentation that says they have dealt with nuisances or potential nuisances. And in the case of some of those businesses it's going to be the ones of actually having to deal with smoke, dust, fumes, noise and show what they have done to be compliant in that regard.

DELEISSEGUES: Mitigation.

BARCA: Yeah.

MOSS: Do we require that of all business over a certain threshold at the beginning or do we do that based upon complaints?

BARCA: Well --

MOSS: It seems to me like if there's no complaint, there's no clear reason to go through the exercise.

SMITH: And the County's not going to be out looking for these people, it's all going to be complaint based I believe.

DELEISSEGUES: Yeah. But how do they know if they have a valid complaint?

SMITH: Well, then they go, have to take a look, and part of that will be some thresholds that we may develop tonight or a later date.

BARCA: I guess what I'm looking for is the opportunity for the neighbor to start with somebody who addresses those concerns rather than have to be the instigating party where just because you live next door to somebody, then you have to go through the hassle. At both of the hearings I've seen that it's pretty clear that things deteriorate before there's opportunity to improve, that when we see the really high impacts there's a lot of hard feelings and it would be nice if we didn't have to drive that down to the citizens in the form of complaint driven activity. I would really like to see the businesses just step forward and say I know I have certain impacts and this is what I've done to mitigate them. Maybe it's an affidavit from the neighbors that says their business doesn't impact them.

I don't know about what specifics we will drive out when we're all said and done, but I do believe that to get balance on this from all sides it's important that we have some way of addressing that while trying to keep the costs in balance as well. Perhaps we look at the aspect of mitigation costs up to a certain point and then after that dollar value or that threshold is reached we go to the aspect of mediation if impacts are still in place. I think we're spending a lot of time on the aspect of how to bring existing businesses into the fold because everybody recognizes the choices that we make here are going to have genuine consequences and to try and accomplish that we don't at the same time want to take away from the surrounding neighbors to do it.

DELEISSEGUES: See, and that's what bothers me, Ron. If there's not some clearly defined standards that they have to meet, whatever you want to call them, rules or regulation standards, the existing neighbors might think that's just fine, but what happens if one of the neighbor sells out to someone else and comes in and doesn't think it's fine, then that puts the business owner back in jeopardy again.

BARCA: Well, and I agree with you and I think that's why if we go back to the portion here that's described as performance standards --

DELEISSEGUES: Right.

BARCA: -- and we get some formal documentation for those high-impact businesses that says they have mitigated those particular performance standards and were able to show that the neighbors are satisfied with that, then I think we're well down that road towards building a case history that says for the future somebody moving into that area should be able to see the same level of performance.

DELEISSEGUES: Well, then on what basis does the County issue a permit?

BARCA: I'm sorry?

MOSS: Well, I think Dick's question is a good one and that's that --

BARCA: Well, say it in a different way, then, because I didn't understand it.

MOSS: I will. I think what Dick's asking or what I would ask is: What would be the performance standards? Let's say that we have existing businesses demonstrate that they've done something to address some of these standards, what does that something have to be? Don't we have to set some minimum standards that have to be met? I mean "doing something" is a little ambiguous.

WRISTON: What do you suggest?

BARCA: Is it? I see where it says "noise must meet the WACs, no odor, glare, dust, smoke, vibration detectable at the property line, no hazardous materials on-site." I don't know.

SMITH: Nothing under "visual pollution" in here.

BARCA: Well, this is what's here now. I'm certainly open to the aspect of full discussion, but there is also something about light pollution in another portion that we read and light pollution, screening. So I think that the proposal that was put forward by the Coalition and the Task Force do address major portions of what we consider the nuisances, it's a matter of how we choose to ask for compliance.

WRISTON: Your visual pollution is screening, taken care of by screening, should be, otherwise we don't want to get into defining that.

SMITH: Yeah, it's rather subjective.

WRISTON: That would be a little difficult.

SMITH: But that's a beautiful CAT, state of the art.

WRISTON: All right, someone bring us home.

MOSS: Yeah, Mr. Lein, you've been --

LEIN: Well, I'm trying to look through here and do some comparisons because I think there's a lot of things here that are similar between the Modified as well as the RBC Proposal. I think the RBC Proposal was mainly concerned about fees and Type II, they would like to see everything a Type I. None of them addressed existing conditions. You



know, what this I think in any of these proposals there's going to be some companies put out of business because they cannot conform to that. So do we want to create a situation that gives those businesses a longer term to continue operation and make other plans would be one thing. I mean that could be a five year situation. I mean if you tell a business owner that you have five years to get your act together or modify what you're doing, you could reduce how you operate from a location and not have as many vehicles on the property and still be able to come in for a Type I. Now I don't know what that time length is.

DELEISSEGUES: And we don't know what the line is, how many vehicles.

LEIN: Yeah. Yeah. But we could set the line. If we agree that the standards set forth by RBC and the Modified RETF are thresholds that staff can use to go out and review projects, whatever they are complained about or they come in for an application --

DELEISSEGUES: That's what I think.

LEIN: I think we can maybe get through some of this, that way we're not throwing these businesses out of compliance or out of business immediately, they understand that they won't be able to be within that zone or in this area forever, and it also means new ones aren't going to try and be established, so I think you're taking away some of that unequal thing that Ron was concerned about.

DELEISSEGUES: I think too that, you know, there might still be room for the Type II permit, but the way I see it would be a rather major business operation that would, you know, I don't know what "major" is, 10 trucks, 10 pieces of equipment, 15 employees, you know, something that's not a family owned and probably not an owner enterprise, it's something that is a commercial business being operated in the rural area that maybe ought to be in light industrial or commercial in the first place.

LEIN: And I'm not saying you won't establish some automatic loopholes that way because I can see, well --

DELEISSEGUES: Well, sure.

LEIN: -- okay, we're going to take this business and we're going to do this on this 20 acres and we're going to have a subsidiary of that business on the adjacent 20 acres and we're going to put three trucks here and we're going to have three trucks here and just, you know, you can play the game if you want to --

DELEISSEGUES: You couldn't write a rule --

LEIN: -- and we can't stop that.

DELEISSEGUES: No. You couldn't write a rule to prohibit that.

LEIN: Yeah, you can't stop things like that.

SMITH: Well, it gets down to what Gordy said, these businesses are supposed to be incidental to the residence so there's got to be a limit to the size or proportion of the residence that is it 10 percent or 20 percent of the residence that -- of the property that's commercial otherwise we're talking light industry here. You know, there are light industry places where people happen to live, you know, on the site as well and we've got to make a distinction there.

DELEISSEGUES: I think you have to define it other than by percent of the property, though, because somebody that owns 200 acres out there and whatever the percent is could have 200 times of what some guy that owned one acre.

MOSS: Now here's the --

DELEISSEGUES: Does that make sense?

MOSS: -- you know, one of the problems that we have, Carey, is that we are talking about some really rural businesses here that belong in the rural area and you touched upon something here that I think is important to recognize and that's that the typical rural excavator business, for example, has only one zone in this county that it can operate in and that's light industrial and there is none in the rural area, there's none, there's heavy industrial and those businesses can't operate in heavy industrial, they're not a permitted use there. That's one of the real difficulties that we have is that the only industrial property that we have in the rural area at all is in the two rural centers of Brush Prairie and Chelatchie Prairie and all of that is heavy industrial, and yet unless a business is so large that it's actually leasing out equipment or renting equipment is kind of a sidelight, there just isn't any way that you can qualify that business to be in one of those locations.

So these folks really don't have any alternatives and yet many of these folks are businesses like septic system installers, you know, should they be based in an urban area. You know, we don't permit septic systems for the most part in urban areas anymore and yet that would be the logical conclusion if we drive these folks out of the rural area. And you did hear some comments a little earlier that I've been kind of concerned about and that's that, you know, we do have a capacity problem on our roads in this county, but that problem is all in the urban area, you know, we have virtually no capacity problems in the rural area, you can drive anywhere you want any time of day and rarely run into a delay because of traffic. I don't believe that it would be wise public policy to cause many of these businesses, and these are the bigger businesses that we're talking about, to have to move to an urban area, take all their equipment down there and then have to go and get it every day and increase the congestion problem within the urban area. It's, you know, that's I think the cure there is worse than the disease.

SMITH: From a planning aspect, though, it's, you know, we have these zones and, well, we're going to comply to the zone unless there's no place else to do it and then we'll just not worry about it. You know, somehow we should be able to make it legal as opposed to continuing to do these nonconforming things throughout the county.

MOSS: We should. We should.

DELEISSEGUES: You're right. All I'm saying is they could be out there with a Type II permit, bigger businesses.

SMITH: Yeah, I suppose.

MOSS: I have a question for staff too. If I read the proposal right it appears to me that logging operations and agricultural operations are exempt only on resource zoned land, that they aren't exempt on rural land?

EULER: There seems to be some question because agriculture and logging are, of course, allowed on rural property.

MOSS: Yeah, they're outright permitted uses in any zone I believe.

EULER: Yeah, there's a the quirk in the Code is in the ag zone there's a fairly defined list of what constitutes "agriculture," in the rural zone it just says "agriculture." That's a quirk in the Code.

MOSS: I have a particular concern, you know, my next door neighbor who you folks have heard a lot from over the years Alan Schumacher is an old-time farmer and his land is zoned rural. If he isn't exempt I don't think he would be able to meet any of these requirements. So as, you know, as we pick things up along the way here I certainly hope that we'll make ag exempt in any of the rural zones. And forestry too.

BARCA: I think that's the way it's written right now.

MOSS: I think it's not.

DELEISSEGUES: I'm not so sure of that.

MOSS: No, I think the proposal is actually that it's exempt only in the resource zones.

DELEISSEGUES: That's what --

EULER: It does say agriculture and forest uses without qualification.

LEIN: Can we come to some kind of conclusion here in terms of some conceptual

recommendations to the Board on topics? Yeah, Gordy.

EULER: If I may just interject, we've in our opinion, at least in my opinion, there are three parts to this and essentially we've talked about all three of them and I think having said that an ordinance by itself is not going to do the job, I think that's clear. We can set standards that are good to go from this day forward that would address any new businesses. I think certainly one recommendation would be strictly for the home oc fee would be to reduce the fee. If we want to get compliance or if compliance is what we're after, one way to entice people to come in the door is not charge them an arm and a leg. And I'm limiting my remarks specifically to the fee we charge for the home business. I think that's legitimate. The third part of it is what you've talked about is we need to figure out some way to address businesses that are there now.

And those three things I think need to be part of a recommendation. I think that any one of them by themselves is not enough. The three need -- some number needs to go together. We need standards because the I think because the task force in their deliberations made it clear that whatever we came up with had to be enforceable, that was one of their big issues. Reducing the Type II fee I think comes about because the other prong of the task force discussion was the fees are outrageous. I mean I'll use that term, I don't know whether Tom Hill ever said that, but so I think that would address another of the task force concerns. And I've heard Dick say that trying to honor the work of the task force, and they wrestled with these same issues over a ten-month period just like you are as to how to put this together, so some kind of standards, look at if it's possible. If it doesn't, it goes against County policy on the fee recovery, but if the idea is to get compliance, reduce the Type II fee, leave the I at \$79, make the Type II fee 379 or 779 or something.

The third part of that, then, is to some amnesty provision that says you got a year to become compliant and we'll charge you a Type II fee for doing it or however you want to do that, X number of dollars and, or five years, three years, some combination of those three, those two things with a set of standards is what we need.

BARCA: Mr. Lee --

LEIN: Yes, sir.

DELEISSEGUES: I second the motion.

BARCA: I was actually speaking to Pat, excuse me.

LEIN: Oh, you said Lee, excuse me. I should know you would never call me that.

BARCA: That's true, you would have been Chairman Lein should I have chose to address you. Under the recommendation from Gordy do you think that we can try and start to flush something like that out if this panel can agree that that's a direction to start with as far as

baseline? I think our discussion has moved somewhat in a circular fashion, but towards what your proposal is and I'm open to hearing what the other of my Commissioners have to say in regard to seeing that further developed from staff.

DELEISSEGUES: But what I see here is that the Modified Task Force Proposal may not be too bad with maybe some, a few exceptions. Don't take this as I'm saying it may not be too bad, I think it's great, I think you did a good job, but all I'm saying is I wouldn't mind accepting that for the new standards. I see the RBC Proposal mostly trying to protect the existing businesses out there. So if we could separate those two things and say what standards would we really want to see if we were starting with no businesses out there at all and we had to start from scratch, you know, what's a reasonable set of standards that we would require different businesses to meet.

I think the RBC concern about the existing businesses we could approach with the amnesty part of it, you know, taking a look at as many as we can, don't make them go through this at all, they're already out there, whatever they're doing they've been doing it for probably before 19, what, Lonnie, '60, whatever, where they didn't need to have any in the first place. So, you know, there's probably a good rationale for granting amnesty for many, if not most, of the truly home occupation businesses that are out there. So that might take care of some of what the RBC Proposal was trying to protect that we're having trouble, you know, with trying to mend that in with what the standards are. You know, that's kind of causing a little dilemma maybe. Well, anyway I think your remarks are good.

EULER: Both the RBC Proposal, and actually all three proposals, have the nuisance standard in there. I think the, I don't know, is Matt still here, I think if we look at that, your suggestion may be the way out of this. I think that probably the major difference is we put standards and the task force felt that we needed something again for that enforceability piece. We can argue, certainly, you can raise them or lower them as we need to and the RBC is saying they're too restrictive and I think their concern is for existing business. I think you're absolutely right. I don't know how we would merge those two other than to create a double standard.

LEE: And I am uncomfortable with a double standard. I would want to set a single standard that both new businesses and existing businesses would have to comply. Certainly for the existing businesses we can deal with the fee issue and we can deal with the timing for compliance issue separately, but I think a uniform standard is a better route to go for all parties.

BARCA: When you say "all parties" you're speaking of the existing clientele out in the rural area that are already operating a business and as I hear you say it compliance to a set of standards trying to bring all those parties in with the least amount of hardship as possible I see us then setting very wide thresholds for compliance. And back to Dick's recommendation, I'm not so sure that I'm as comfortable with that thought process as opposed to starting out with the idea that if we're going to be bringing businesses in with

enforceability in the future, they'd have a certain performance level and performance standards in place, and then for the existing businesses rather than thrust them into an arena that they were never subject to before, I guess I'm more comfortable with the idea of that very limited second tier or double standard as the terminology is used right now.

DELEISSEGUES: I don't think there's a double standard, I think there's one standard and I think you're exempting some parts of the existing business out there from that standard, we're grandfathering them in, whatever you want to say, granting them amnesty, they don't have to worry about it because they're out there, they're not causing a problem, they're self-contained, we don't have to worry about that. We'd only have one standard, they just don't have to meet it.

BARCA: Was that your intent, Pat, when you said that?

LEE: No.

BARCA: Okay. That, Dick, that was the issue.

SMITH: Well, it seems that they could both have the same standard but the existing businesses will have three years to meet that standard where the new businesses would have to meet that standard immediately, which I think is fair because the existing ones have already, you know, invested in how they're doing business at the time.

MOSS: Yeah, I'm not leaning that way, I still have concerns about the practicality of requiring permitting for all of the existing businesses out there. And I am particularly concerned that we have lots of businesses upon which people depend for their livelihood that would be driven out of rural Clark County by application of these standards, and yet I'm still not comfortable with proposing blanket amnesty for everybody that exists out there because we know that there's a small percentage but are clearly there and causing a problem for some of their neighbors and what I don't want to do is legitimize bad practices like that. But other than that I'm very comfortable with the idea of just starting with a set of standards for new businesses and in giving general amnesty to those that exist already. Now that's --

DELEISSEGUES: To a certain level?

MOSS: Well, I'm not even worried about the level.

WRISTON: What about your comments about the problems complaint driven?

MOSS: Well, that's, you know, that is the concern --

WRISTON: Forget it?

MOSS: -- that I have, you know, that what do we do if we had a good nuisance ordinance in place, I guess, that people could use to address the grievances, the legitimate ones that we have, I'd be a lot more comfortable with this. But what do we do if we've got a business out there that's just an absolutely rotten neighbor and we grant amnesty to that business, that's just a license to continue to be a rotten neighbor.

WRISTON: Right.

LEIN: And to get worse --

MOSS: And to get worse, yeah.

LEIN: -- potentially.

BARCA: That's why I've continued to come back to say that there just -- there has to be some form of documented compliance with at least the performance standards dealing with nuisances right up front.

MOSS: Well, you know, that's one way to approach it, but what you're doing, I think where you and I are differing, is I would like to put most existing businesses in the position of not having to do anything to comply. If I were to make a proposal or make a motion for a form of amnesty, I would want most businesses not to even have to send in any information at all. But as I said, I'm not comfortable in making that kind of a motion because I haven't figured out what to do with the bad apples.

DELEISSEGUES: Well, see, that's the question, that's kind of where I was. You say "most," you know, I say dividing those up into self-contained where there's no problem at all in my mind and then two levels. But where do you define "most," that's the question.

MOSS: Well, your premise though, Dick, is that the larger businesses are the ones that are necessarily the problems and I don't believe that the testimony that we've heard necessarily bears that out, that some of the worst neighbors so far have been the smaller businesses. You know, we heard some testimony out at PUD about a case where we've got an existing business that's some kind of auto repair shop where folks are racing up and down the gravel driveway and there's just a hell of a bunch of noise going on all the time and yet that business would probably fit within the lower threshold. Businesses that are, many businesses --

DELEISSEGUES: Well, it's obviously not self-contained though, and that was my description, within the confines of the building. And I'm talking about a real home occupation where the guy's a computer operator or there, you know, whatever else.

MOSS: But I think any of the proposals do exactly that, they make them exempt.

DELEISSEGUES: No, I don't see that. Where does it say that? I mean they're all Type I in this modified.

BARCA: If you go to the draft on the first page where it says "Rural Exempt" and you look at what is in common with the three different proposals, this is on the first page on the bottom row, so two, say, no outside storage, one says no outside activity, no retail sales, no --

DELEISSEGUES: That's exactly what I'm talking about.

BARCA: -- no employees in one, no customers in the other, one nonresidential employee. I think we could pretty quickly come to agreements about how many employees are acceptable, what size of the accessory building is acceptable and come to a pretty resolute understanding of what we would all agree is reasonably defined as "exempt."

DELEISSEGUES: Yeah, I think we could.

MOSS: I think we could too.

DELEISSEGUES: Then let's do it.

MOSS: But I don't think that that addresses the question that I raised earlier about some general form of amnesty for businesses.

DELEISSEGUES: It doesn't.

BARCA: Okay. Well, let's --

MOSS: It might be productive to go through that.

BARCA: Well, let's talk about it, then, from the next level. Okay, we all come to an agreement on the theoretical exempt in the rural area, then the next threshold that we have to tackle is urban permitted and rural permitted. In regards to both of these I think we could come up with enough criteria to designate what we would consider the low threshold, low impact Type I and segregate that, and for the sake of discussion with the existing constituency once again say that there will be an amnesty period or appropriate blanket applied to those businesses as well, and then from there we would get into what we would consider the Type II where there would have to be some form of documentation towards mitigation and that type of thing.

LEIN: Again, with a time frame for existing?

BARCA: Well, yeah, I'm certainly open to the time frame as a criteria to come into compliance.



LEIN: Or give them the opportunity to make other business decisions.

BARCA: Or an opportunity to make other business decisions including the aspect of going to a commercial property.

DELEISSEGUES: Now what I see here is if we did what you're talking about on this second page where it says "Rural permitted," I think that the Modified Task Force Proposal would be, you know, the standards that we would talk about for new business if we're talking about exempting the existing businesses, which is what I think the RBC Proposal tried to lighten up on, you might say to protect as many of those as they could and I see that as the difference between the recommendation from the Modified Task Force Proposal to the RBC Proposal.

AUDIENCE: The only difference between the two proposals is the matrix. And the reason for that difference was the square footage allowed for parking didn't even accommodate the vehicles for equipment permitted. So the matrix, the dimensions just didn't match, particularly on the larger parcel.

DELEISSEGUES: Well, I'm just saying it wouldn't be a concern if they were mostly exempted though. I mean it's not a bad recommendation for new businesses.

SMITH: Double standard.

DELEISSEGUES: Under a Type I and then when you get over here you do a Type II.

MOSS: Pat or Gordy, why in the Rural Exempt the task force made some recommendations that were quite a bit more generous, I guess, than what you folks ended up with in the modified. For example, the up to three nonresident workers, the task force apparently was not particularly bothered by exempting that level of employment. Why was that change recommended?

EULER: Again, if you look at the Task Force Proposal they have an exempt and a permit, we have an exempt, a minor permit and a major permit, so we folded their two categories into our three categories as a continuum of the more activity you have, the larger your parcel -- actually, I'm sorry, the more activity you have, the higher the level of review. And that activity is measured primarily on the size of a parcel that you have. So what they did in terms of exempts we sort of blended into exempt in Type I, I think to answer your question. And, again, our reasoning for going to the II was I think primarily for the public notice part of that. We felt that given some of the complaints that we heard and some of the concerns from neighbors, that we figured that the Type II which includes the notice requirement was for larger, what we're calling "major activity," was appropriate.

LEE: And I do think a lot of the discussion about Type I or Type II revolved around the fee

as opposed to the review necessarily.

MOSS: You've been quiet for a long time, Mr. Wriston, jump in here.

WRISTON: I'm taking it all in.

LEIN: Do we want to get into the details of the chart or do we want to send forward a more conceptual idea to the Board and let them struggle with the details to it? If we set some standards by adopting, give some direction to staff that they can take forward.

WRISTON: We have a couple -- we haven't overcome the key issues yet. The key issue.

SMITH: Might have to make a motion to really address them.

LEIN: Well, I think we all have agreed on fees being lower; right?

MOSS: Well, that depends on how those are going to be handled. I think it's --

EULER: Could you be a little more definitive when you say what you mean by "fees"?

WRISTON: Well, yeah. If you look at the --

LEIN: For the ordinance.

WRISTON: Yeah, the fee schedule. I mean where it gets real spendy is when you start looking at the what we've decided the PAC. Is that the pre-application?

EULER: Right.

WRISTON: What is that?

EULER: Again, I've tried to --

WRISTON: And then the site plan and then the SEPA plus per acre.

LEE: The number of different permits depends on --

WRISTON: And then if you have critical areas, oh, boy.

LEE: -- what the degree of the proposal is to some extent, so we were just trying to lay out scenarios of what it could. But, again, it's all -- it's not that that's a given for any particular permit, it's just kind of the range of things that could happen depending on what specific proposals are coming forward.

WRISTON: But in the Type II, for instance, I just want to so we understand the fee structure. In that Type II the middle one 10,000 is probably the best you're going to do? I mean that's assuming you don't have any habitat area. So you're going to have to have a pre-application and you're going to have to have a site plan and you're going to have to do SEPA, those are all given?

EULER: That's correct. And we've --

WRISTON: So 10,000 is the best you're going to do.

EULER: The hope -- I guess the other side of that is we only want to apply that in the most major of circumstances.

WRISTON: In the Type II?

EULER: That's correct.

BARCA: So that would be somewhere --

WRISTON: And the major of circumstances would be?

EULER: Again, the way the task force proposed it and the modified task force, that's the standards in the matrix.

WRISTON: The major Type II here, yeah.

EULER: It sets limits but that's otherwise you're a Type I or you're exempt. And in terms of fees, Mr. Chairman, I in terms of my earlier remarks was saying we should make a recommendation to lower the home occupation fee.

LEIN: Home occupation fee, yes.

EULER: You could certainly say that other development fees --

LEIN: Should be reviewed.

EULER: But the Home Occupation Ordinance is a section that's imbedded in the Code in the Special Uses section that's separate and apart from the regular residential, agriculture, commercial, industrial development. It certainly is your prerogative, but my suggestion, or at least to consider, was we just look at the home occupation fee itself.

WRISTON: On this, on that Type II, I just want to take an example. You take the home occupation, which is 2605, and you add that to the 10,311?

BARCA: No.

LEIN: No.

WRISTON: Is that right or not?

BARCA: It's accumulated.

LEIN: You add it to (inaudible) and it comes up to 10,311.

EULER: It's included in the 10,000 because -- if I'm doing the math correctly.

LEIN: Yeah.

WRISTON: Okay. Okay. I'm sorry, I didn't see it. It's not added. I mean I got you though, okay.

EULER: But the point is if you develop, you have site plan, pre-application conference, maybe a SEPA anyway, and however you feel about those fees there's a separate fee that that's just for the home occupation part of it.

WRISTON: No, I understood.

BARCA: And I think as the Planning Commission we have an opportunity to try and focus some of that based on how we define what will be a Type II requirement and I don't believe that it's in the best interest of this ordinance to pass this along without getting into that level of detail. So, Mr. Chairman, based on your earlier request on whether we should pass forward something general, I would actually prefer to get into the details more and try and pass something forward that we understand what the impacts will be both to the existing constituency and to future constituency that looks at home occupation.

LEIN: Well, if we do that we better move along fairly quickly because we have the next five meetings already scheduled for a comp plan review so.

DELEISSEGUES: Those are just Thursdays?

LEIN: Those are just Thursdays, that's right, we still have Tuesday nights open. You haven't read your box of books yet so.

BARCA: You haven't?

LEIN: So if we want to get more detail, why don't we go down and address each of the future standards, let's see if we can come up with something. Is that agreeable? Applicability, rural and urban areas, is that agreed? Well, before we get into it let's take a

quick break and --

BARCA: Five to seven minutes.

LEIN: -- we'll take another five to seven minute break. Thank you.

(Pause in proceedings.)

LEIN: We'll reconvene. We've had quite a bit of discussion as we're going and you can tell by the discussion we've had to date that we still are struggling with a lot of things. I think the Planning Commission has reached consensus that we will continue this to the November hearing. We have five hearings coming up in the next five weeks and we want to be able to address this and allow staff to meet with the parties and continue to work with us to come up with reasonable suggestions that we can send on to the Board of County Commissioners. I believe the November date is November 20th. Sonja, do you know where it's at?

WISER: It will be 6:30 here.

LEIN: 6:30 in this building. So we appreciate all the good testimony people have given. I think you've shown us that it's very difficult and I think we agree this is probably one of the more difficult issues that we've had to deal with so far. So, Mr. Lee, do you have things that you need from us or do we have enough understanding of what needs to be done between now and then?

LEE: Well, I guess in directing us to meet with other parties I do think we have to be clear on are we supposed to work towards some standards or not?

MOSS: Yes.

LEE: And, Lonnie, you've suggested also what might the amnesty process be like. Those are two things that you want us to sit down with and try and work through and reach some consensus?

MOSS: Yeah, I would agree that there needs to be standards that are measurable and that are enforceable and whatever solution that we have. And I would also like to have staff do some work on bringing back maybe some recommendations that would address the potential amnesty issue. And that is how would we go about identifying and enforcing, I guess, in those situations where we may have just granted amnesty to bad apples in the bunch. That's my particular concern. I would think one of the benefits of delaying this, too, until November is that I notice that Rich is not here tonight and I think there are some legal issues involved here that I'd certainly like to ask him about.

EULER: He had some other plans.

MOSS: Yeah, I'm aware that he's not in town.

LEE: Not that you need another meeting, but we could do a work session before we reconvene to review the information. That would be -- November 6th would be the date.

MOSS: I think that would be excellent.

DELEISSEGUES: Yeah, I think that would too.

MOSS: November 6th and November 20th.

LEE: Yeah, work session on November 6th and, Sonja, what time -- well, what time is convenient for, you know, usually we do it starting anywhere from 4:00 to 5:00, we could start it at 6:00 if you wanted to start at 6:00 if that would be better.

DELEISSEGUES: Start at 5:30.

LEIN: Work session on the 6th. 5:30?

DELEISSEGUES: 5:30.

LEIN: That will work.

LEE: And Sonja will try and locate us a place; right?

WISER: We have it booked already. I'll let them know.

LEE: Is that the training room?

WISER: I believe the training room.

LEE: So a work session at 5:30 on the 6th, we think it's at the training room, we'll confirm the location, and then we'll continue the deliberations on November 20th at 6:30 here.

EULER: Do you want us to work on ordinance language or are we just still talking concepts here?

LEIN: I think you need to look at the impact it has on the ordinance language otherwise we won't be prepared to take it on to the Board.

EULER: But do you just want in terms of do you want to see a draft of something if we do some further work or do we want to just talk about the bigger picture?

LEIN: I'd like to see a draft.

SMITH: Do we want to have them work on Type I, Type II standard type things too?

BARCA: Yeah, I think that all comes with the aspect of draft ordinance language. And just going back to that, the matrix that you did before, there's actually so many things that are in common which I've got in yellow that I, you know, I think we're a long way down the road of trying to put something together that was agreeable to multiple stakeholders in this.

LEIN: Entertain a **motion** for that.

DELEISSEGUES: So moved.

WRISTON: **Second.**

LEIN: Could we have roll call, please.

### **ROLL CALL VOTE**

MOSS:	AYE
BARCA:	AYE
SMITH:	AYE
WRISTON:	AYE
DELEISSEGUES:	AYE
LEIN:	AYE

LEIN: That concludes tonight's public hearing. We appreciate your patience. I think it's better for us to continue this on than to give a decision that you could tell we were very unsure of. Not that we'll agree on the next time around anyway, but that's fine. So thank you. Is there any old business?

DELEISSEGUES: But at least they'll know why we didn't agree.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

LEIN: That's right. Any new business? I think you all received an E-mail from Sonja with

recommendations to bring three books and then she listed six.

WISER: That was Pat's E-mail.

LEIN: So out of the books we're supposed to bring are --

LEE: The first three listed were the ones that would probably be the most important for the hearing on next Thursday.

LEIN: Have you all had a chance to read through the agendas that were sent out today?

BARCA: They were sent out today?

WRISTON: Via E-mail?

LEIN: Yes. Well, I know you wouldn't.

WRISTON: I was going to say no.

LEIN: Pat, do you want to give a brief overview of what we'll be doing at each one.

LEE: Sure. Let me briefly review. Next Thursday is the first, will be a brief staff overview presentation. Then we'll have presentations with the Cities trying to lay out what the proposed comp plan is that we have put forward and how that differed from what the Cities put forward. And then we'll also have testimony from more of the organized groups and associations. That meeting is up in this building at 6:30. On October 2nd the focus is really going to be testimony from individual property owners. That will be in the old Community Development Building, old Conference Rooms A and B which have been enlarged, and that will be at 6:30 on October 2nd. On October 9th we are in the Vancouver City Hall, 6:30 again, and the focus will be on the capital facilities. And I think we'll also at that point want to make sure that we have a review of comp plan policies and potential code changes as well. And then on the 16th we will be back up here, and also at 6:30, and we will be hoping that you'll be able to do deliberations and action. And Vaughn has told me to and Sonja has booked a backup hearing on the 23rd if needed which is City Hall I think.

WISER: I think it's, yeah, I've lost track. I think City Hall.

LEE: Larger meeting rooms are not an easy thing to come by.

BARCA: Well, who trumps us out of this room on Thursdays?

WRISTON: The hearing's examiner.

LEE: The hearing's examiner.



BARCA: I can understand why they would need the size of this room.

LEIN: When both people show up.

LEE: Well, it's also, you know, kind of first come, first serve policy. They've had these hearings booked for some time and they've sent notices out so.

LEIN: Thank you, Pat.

DELEISSEGUES: So what are you going to do in your spare time?

### **COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION**

LEIN: Any comments from members of the Planning Commission?

WRISTON: I'm going to get lost.

DELEISSEGUES: No.

### **ADJOURNMENT**

The hearing adjourned at 10:30 p.m.

All proceedings of tonight's hearing are filed in Clark County Community Development/Long Range Planning. The minutes can also be viewed on the Clark County Web Page at [www.co.clark.wa.us/ComDev/LongRange/LRP\\_PCagenda.asp](http://www.co.clark.wa.us/ComDev/LongRange/LRP_PCagenda.asp)

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Vaughn Lein, Chair

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Date

*Minutes Transcribed By:*  
*Cindy Holley, Court Reporter*  
*Sonja Wiser, Administrative Assistant*

*SWMin 09-18-2003*